

POLITICAL SUBDIVISION FACILITY

ENERGY EFFICIENCY

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Fred R Hunsaker

Senate Sponsor: Scott K. Jenkins

LONG TITLE

General Description:

This bill authorizes a political subdivision to enter into an energy savings agreement.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ permits a political subdivision to:
 - enter into an energy savings agreement with a qualified energy service provider;
 - develop and administer a facility energy efficiency program;
 - analyze energy consumption; and
 - designate a staff member who is responsible for the facility energy efficiency program;
- ▶ permits certain state entities to provide assistance to a political subdivision;
- ▶ defines length and type of contracts to be entered into;
- ▶ requires a political subdivision to follow the Utah Procurement Code for an energy savings agreement;
- ▶ requires an investment grade energy audit to be performed;
- ▶ requires the Division of Purchasing to maintain a list of qualified energy service providers; and
- ▶ requires a qualified energy service provider to issue an annual report.

Monies Appropriated in this Bill:

None

30 **Other Special Clauses:**

31 None

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **53A-3-402**, as last amended by Laws of Utah 2009, Chapters 277 and 388

35 ENACTS:

36 **11-44-101**, Utah Code Annotated 1953

37 **11-44-102**, Utah Code Annotated 1953

38 **11-44-201**, Utah Code Annotated 1953

39 **11-44-202**, Utah Code Annotated 1953

40 **11-44-203**, Utah Code Annotated 1953

41 **11-44-301**, Utah Code Annotated 1953

42 **11-44-302**, Utah Code Annotated 1953



44 *Be it enacted by the Legislature of the state of Utah:*

45 Section 1. Section **11-44-101** is enacted to read:

46 **CHAPTER 44. FACILITY ENERGY EFFICIENCY ACT**

47 **Part 1. General Provisions**

48 **11-44-101. Title.**

49 This chapter is known as the "Facility Energy Efficiency Act."

50 Section 2. Section **11-44-102** is enacted to read:

51 **11-44-102. Definitions.**

52 As used in this chapter:

53 (1) "Cost savings" means a decrease in an expenditure, including a future replacement
54 expenditure, by a political subdivision resulting from an energy efficiency measure adopted
55 under this chapter.

56 (2) (a) "Energy efficiency measure" means an action taken by a political subdivision
57 that reduces the political subdivision's:

- 58 (i) energy consumption;
- 59 (ii) water use; or
- 60 (iii) sewage use.
- 61 (b) "Energy efficiency measure" includes:
- 62 (i) insulation installed in a wall, roof, floor, foundation, or heating and cooling
- 63 distribution system;
- 64 (ii) a storm window or door, multiglazed window or door, heat absorbing or heat
- 65 reflective glazed and coated window or door system, additional glazing, or reduction in glass
- 66 area;
- 67 (iii) an automatic energy control system;
- 68 (iv) a heating, ventilating, or air conditioning and distribution system modification or
- 69 replacement in a facility;
- 70 (v) caulking and weatherstripping;
- 71 (vi) a replacement or modification of a lighting fixture to increase the energy
- 72 efficiency of the lighting system without increasing the overall illumination of a facility unless
- 73 the increase in illumination is necessary to conform to the applicable building code for the
- 74 proposed lighting system;
- 75 (vii) an energy recovery system;
- 76 (viii) a cogeneration system that produces steam or another form of energy for use
- 77 primarily within a facility;
- 78 (ix) a renewable energy or alternate energy system;
- 79 (x) a change in operation or maintenance practice;
- 80 (xi) a procurement of a low-cost energy supply, including electricity, natural gas, or
- 81 water;
- 82 (xii) an indoor air quality improvement that conforms to applicable building code
- 83 requirements;
- 84 (xiii) a daylighting system;
- 85 (xiv) a building operation program that provides cost savings, including computerized

86 energy management and consumption tracking programs or staff and occupant training; or

87 (xv) a service to reduce utility costs by identifying utility errors and optimizing rate
88 schedules.

89 (3) "Energy savings agreement" means a contract between a political subdivision and
90 a qualified energy service provider for evaluation, recommendation, and implementation of
91 one or more energy efficiency measures.

92 (4) (a) "Facility" means a building, structure, or other improvement that is constructed
93 on property owned by a political subdivision.

94 (b) "Facility" does not mean a privately owned structure that is located on property
95 owned by a political subdivision.

96 (5) "Facility energy efficiency program" means a program established by a political
97 subdivision under this chapter to adopt an energy efficiency measure.

98 (6) "Qualified energy service provider" means a person who:

99 (a) has a record of successful energy savings agreements; or

100 (b) has:

101 (i) experience in the design, implementation, and installation of energy efficiency
102 measures;

103 (ii) technical capabilities to ensure that an energy efficient measure generates cost
104 savings; and

105 (iii) the ability to secure the financing necessary to support the proposed energy
106 efficiency measure.

107 Section 3. Section **11-44-201** is enacted to read:

108 **Part 2. Energy Savings by Political Subdivisions**

109 **11-44-201. Political subdivision responsibilities -- State responsibilities.**

110 (1) A political subdivision may:

111 (a) enter into an energy savings agreement;

112 (b) develop and administer a facility energy efficiency program;

113 (c) analyze energy consumption by the political subdivision;

114 (d) designate a staff member who is responsible for a facility energy efficiency
115 program; and

116 (e) provide the governing body of the political subdivision with information regarding
117 the facility energy efficiency program.

118 (2) The following entities may provide information, technical resources, and other
119 assistance to a political subdivision acting under this chapter:

120 (a) the Utah Geological Survey, created in Section 79-3-201;

121 (b) the State Board of Education, under Title 53A, Chapter 1, Administration of
122 Public Education at the State Level;

123 (c) the Division of Purchasing and General Services, created in Section 63A-2-101;
124 and

125 (d) the Division of Facilities Construction and Management, created in Section
126 63A-5-201.

127 Section 4. Section **11-44-202** is enacted to read:

128 **11-44-202. Types of agreements.**

129 Notwithstanding Section 63G-6-416, a political subdivision shall structure an energy
130 service agreement as a guaranteed energy savings performance contract, which shall include:

131 (1) the design and installation of an energy efficiency measure, if applicable;

132 (2) operation and maintenance of any energy efficiency measure implemented; and

133 (3) guaranteed annual cost savings that meet or exceed the total annual contract

134 payments by the political subdivision under the contract, including financing charges incurred
135 by the political subdivision over the life of the contract.

136 Section 5. Section **11-44-203** is enacted to read:

137 **11-44-203. Length of agreements.**

138 A political subdivision may only enter into an energy savings agreement for more than
139 one year if the political subdivision finds that the amount the political subdivision would
140 spend on the energy efficiency measure will not exceed the amount of the cost savings over 20
141 years from the date of installation of the energy efficiency measure.

142 Section 6. Section **11-44-301** is enacted to read:

143 **Part 3. Qualified Energy Service Providers**

144 **11-44-301. Selection.**

145 (1) A political subdivision shall follow the procedures outlined in Title 63G, Chapter
146 6, Utah Procurement Code, when selecting a qualified energy service provider.

147 (2) The Division of Purchasing shall maintain a list of qualified energy service
148 providers.

149 (3) The qualified energy service provider selected from the bid process shall prepare
150 an investment grade energy audit, which shall become part of the final contract between the
151 political subdivision and the qualified energy service provider.

152 (4) The audit shall include:

153 (a) a detailed description of the energy efficiency measure;

154 (b) an estimated cost; and

155 (c) a projected cost savings.

156 Section 7. Section **11-44-302** is enacted to read:

157 **11-44-302. Annual reports.**

158 During the term of an energy savings agreement, the qualified energy service provider
159 shall submit an annual report to the political subdivision that provides the cost savings
160 attributable to the energy efficiency measures taken by the political subdivision.

161 Section 8. Section **53A-3-402** is amended to read:

162 **53A-3-402. Powers and duties generally.**

163 (1) Each local school board shall:

164 (a) implement the core curriculum utilizing instructional materials that best correlate
165 to the core curriculum and graduation requirements;

166 (b) administer tests, required by the State Board of Education, which measure the
167 progress of each student, and coordinate with the state superintendent and State Board of
168 Education to assess results and create plans to improve the student's progress which shall be
169 submitted to the State Office of Education for approval;

170 (c) use progress-based assessments as part of a plan to identify schools, teachers, and
171 students that need remediation and determine the type and amount of federal, state, and local
172 resources to implement remediation;

173 (d) develop early warning systems for students or classes failing to make progress;

174 (e) work with the State Office of Education to establish a library of documented best
175 practices, consistent with state and federal regulations, for use by the local districts; and

176 (f) implement training programs for school administrators, including basic
177 management training, best practices in instructional methods, budget training, staff
178 management, managing for learning results and continuous improvement, and how to help
179 every child achieve optimal learning in core academics.

180 (2) Local school boards shall spend minimum school program funds for programs and
181 activities for which the State Board of Education has established minimum standards or rules
182 under Section 53A-1-402.

183 (3) (a) A board may purchase, sell, and make improvements on school sites, buildings,
184 and equipment and construct, erect, and furnish school buildings.

185 (b) School sites or buildings may only be conveyed or sold on board resolution
186 affirmed by at least two-thirds of the members.

187 (4) (a) A board may participate in the joint construction or operation of a school
188 attended by children residing within the district and children residing in other districts either
189 within or outside the state.

190 (b) Any agreement for the joint operation or construction of a school shall:

191 (i) be signed by the president of the board of each participating district;

192 (ii) include a mutually agreed upon pro rata cost; and

193 (iii) be filed with the State Board of Education.

194 (5) A board may establish, locate, and maintain elementary, secondary, and applied
195 technology schools.

196 (6) Except as provided in Subsection 53A-11-1402(3), a board may enroll children in
197 school who are at least five years of age before September 2 of the year in which admission is

198 sought.

199 (7) A board may establish and support school libraries.

200 (8) A board may collect damages for the loss, injury, or destruction of school property.

201 (9) A board may authorize guidance and counseling services for children and their
202 parents or guardians prior to, during, or following enrollment of the children in schools.

203 (10) (a) A board shall administer and implement federal educational programs in
204 accordance with Title 53A, Chapter 1, Part 9, Implementing Federal Programs Act.

205 (b) Federal funds are not considered funds within the school district budget under Title
206 53A, Chapter 19, School District Budgets.

207 (11) (a) A board may organize school safety patrols and adopt rules under which the
208 patrols promote student safety.

209 (b) A student appointed to a safety patrol shall be at least 10 years old and have
210 written parental consent for the appointment.

211 (c) Safety patrol members may not direct vehicular traffic or be stationed in a portion
212 of a highway intended for vehicular traffic use.

213 (d) Liability may not attach to a school district, its employees, officers, or agents or to
214 a safety patrol member, a parent of a safety patrol member, or an authorized volunteer
215 assisting the program by virtue of the organization, maintenance, or operation of a school
216 safety patrol.

217 (12) (a) A board may on its own behalf, or on behalf of an educational institution for
218 which the board is the direct governing body, accept private grants, loans, gifts, endowments,
219 devises, or bequests that are made for educational purposes.

220 (b) These contributions are not subject to appropriation by the Legislature.

221 (13) (a) A board may appoint and fix the compensation of a compliance officer to
222 issue citations for violations of Subsection 76-10-105(2).

223 (b) A person may not be appointed to serve as a compliance officer without the
224 person's consent.

225 (c) A teacher or student may not be appointed as a compliance officer.

- 226 (14) A board shall adopt bylaws and rules for its own procedures.
- 227 (15) (a) A board shall make and enforce rules necessary for the control and
228 management of the district schools.
- 229 (b) All board rules and policies shall be in writing, filed, and referenced for public
230 access.
- 231 (16) A board may hold school on legal holidays other than Sundays.
- 232 (17) (a) Each board shall establish for each school year a school traffic safety
233 committee to implement this Subsection (17).
- 234 (b) The committee shall be composed of one representative of:
- 235 (i) the schools within the district;
- 236 (ii) the Parent Teachers' Association of the schools within the district;
- 237 (iii) the municipality or county;
- 238 (iv) state or local law enforcement; and
- 239 (v) state or local traffic safety engineering.
- 240 (c) The committee shall:
- 241 (i) receive suggestions from parents, teachers, and others and recommend school
242 traffic safety improvements, boundary changes to enhance safety, and school traffic safety
243 program measures;
- 244 (ii) review and submit annually to the Department of Transportation and affected
245 municipalities and counties a child access routing plan for each elementary, middle, and junior
246 high school within the district;
- 247 (iii) consult the Utah Safety Council and the Division of Family Health Services and
248 provide training to all school children in kindergarten through grade six, within the district, on
249 school crossing safety and use; and
- 250 (iv) help ensure the district's compliance with rules made by the Department of
251 Transportation under Section 41-6a-303.
- 252 (d) The committee may establish subcommittees as needed to assist in accomplishing
253 its duties under Subsection (17)(c).

254 (e) The board shall require the school community council of each elementary, middle,
255 and junior high school within the district to develop and submit annually to the committee a
256 child access routing plan.

257 (18) (a) Each school board shall adopt and implement a comprehensive emergency
258 response plan to prevent and combat violence in its public schools, on school grounds, on its
259 school vehicles, and in connection with school-related activities or events.

260 (b) The board shall implement its plan by July 1, 2000.

261 (c) The plan shall:

262 (i) include prevention, intervention, and response components;

263 (ii) be consistent with the student conduct and discipline policies required for school
264 districts under Title 53A, Chapter 11, Part 9, School Discipline and Conduct Plans;

265 (iii) require inservice training for all district and school building staff on what their
266 roles are in the emergency response plan; and

267 (iv) provide for coordination with local law enforcement and other public safety
268 representatives in preventing, intervening, and responding to violence in the areas and
269 activities referred to in Subsection (18)(a).

270 (d) The State Board of Education, through the state superintendent of public
271 instruction, shall develop comprehensive emergency response plan models that local school
272 boards may use, where appropriate, to comply with Subsection (18)(a).

273 (e) Each local school board shall, by July 1 of each year, certify to the State Board of
274 Education that its plan has been practiced at the school level and presented to and reviewed by
275 its teachers, administrators, students, and their parents and local law enforcement and public
276 safety representatives.

277 (19) (a) Each local school board may adopt an emergency response plan for the
278 treatment of sports-related injuries that occur during school sports practices and events.

279 (b) The plan may be implemented by each secondary school in the district that has a
280 sports program for students.

281 (c) The plan may:

282 (i) include emergency personnel, emergency communication, and emergency
283 equipment components;

284 (ii) require inservice training on the emergency response plan for school personnel
285 who are involved in sports programs in the district's secondary schools; and

286 (iii) provide for coordination with individuals and agency representatives who:
287 (A) are not employees of the school district; and
288 (B) would be involved in providing emergency services to students injured while
289 participating in sports events.

290 (d) The board, in collaboration with the schools referred to in Subsection (19)(b), may
291 review the plan each year and make revisions when required to improve or enhance the plan.

292 (e) The State Board of Education, through the state superintendent of public
293 instruction, shall provide local school boards with an emergency plan response model that
294 local boards may use to comply with the requirements of this Subsection (19).

295 (20) A board shall do all other things necessary for the maintenance, prosperity, and
296 success of the schools and the promotion of education.

297 (21) (a) Before closing a school or changing the boundaries of a school, a board shall:

298 (i) hold a public hearing, as defined in Section 10-9a-103; and
299 (ii) provide public notice of the public hearing, as specified in Subsection (21)(b).

300 (b) The notice of a public hearing required under Subsection (21)(a) shall:

301 (i) indicate the:

302 (A) school or schools under consideration for closure or boundary change; and
303 (B) date, time, and location of the public hearing; and

304 (ii) at least 10 days prior to the public hearing, be:

305 (A) published:

306 (I) in a newspaper of general circulation in the area; and
307 (II) as required in Section 45-1-101; and

308 (B) posted in at least three public locations within the municipality or on the district's
309 official website.

310 (22) A board may implement a facility energy efficiency program established under
311 Title 11, Chapter 44, Facility Energy Efficiency Act.