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Proposed Committee Substitute by the Committee on Governmental Operations.

1 A bill to be entitled

2 An act relating to energy use; amending s. 255.251, F.S.;

3 revising a short title; amending s. 255.252, F.S.;

4 revising criteria for energy conservation and

5 sustainability for state-owned buildings; requiring

6 buildings constructed and financed by the state to meet

7 certain environmental standards approved by the Department

8 of Management Services; requiring state agencies to

9 identify state-owned buildings that are suitable for

10 guaranteed energy performance savings contracts; providing

11 requirements and procedures therefor; requiring the

12 Department of Management Services to evaluate identified

13 facilities and develop an energy efficiency project

14 schedule; providing criteria for such schedule;

15 establishing standards for the purchase of biodiesel

16 diesel fuel for use in state-owned diesel vehicles and

17 equipment; amending s. 255.253, F.S.; defining the terms

18 "sustainable building" and "sustainable building rating";

19 amending s. 255.254, F.S.; revising provisions relating to

20 the analysis of the life-cycle costs of state facilities;

21 requiring an energy performance analysis of leased

22 facilities; amending s. 255.255, F.S.; revising energy

23 conservation performance guidelines to be used in life-

24 cycle cost analyses; amending s. 287.063, F.S.;

25 prohibiting the term of payment for consolidated equipment

26 finance contracts from extending beyond the anticipated

27 useful life of the equipment financed; deleting the



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28 requirement that the Chief Financial Officer establish
29 criteria that prohibits a state agency from obligating an
30 annualized amount of payments for certain deferred payment
31 purchases; amending s. 287.064, F.S.; extending the period
32 of time allowed for the repayment of funds for certain
33 purchases relating to energy conservation measures;
34 requiring guaranteed energy performance savings
35 contractors to provide for the replacement or the
36 extension of the useful life of the equipment during the
37 term of a contract; amending s. 287.16, F.S.; providing
38 additional duties for the Department of Management
39 Services relating to the energy efficiency of state
40 vehicles; creating s. 377.907, F.S.; requiring the Florida
41 Energy Commission to develop Lead-by-Example initiatives
42 to help defray energy costs and to develop recommendations
43 to promote energy efficiency and clean energy
44 technologies; requiring a report to the Legislature by
45 December 31, 2009, and periodically thereafter; amending
46 s. 489.145, F.S.; revising provisions relating to
47 guaranteed energy performance savings contracting by state
48 agencies to address energy-related operational savings;
49 revising definitions; revising criteria for proposed
50 contracts; specifying documentation that must be submitted
51 for contract review by the Chief Financial Officer;
52 creating s. 1013.441, F.S.; establishing the Green Schools
53 Pilot Project; providing Legislative intent; providing for
54 the selection of three school districts by the State Board
55 of Education; providing for the payment of additional
56 costs associated with meeting specified building
57 construction standards that maximize energy efficiency and



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58 | minimize adverse environmental effects; providing for the
59 | distribution of funding for the project; providing for a
60 | report to the Legislature and the Commissioner of
61 | Education; establishing standards for the purchase of
62 | ethanol for use in state-owned flex-fuel vehicles;
63 | providing for administration by the Department of
64 | Management Services; requiring that the department
65 | annually report to the Legislature the extent of biodiesel
66 | and ethanol use in state-owned vehicles; establishing
67 | standards for the purchase of biodiesel fuel by school
68 | district transportation services; providing an effective
69 | date.

70

71 | Be It Enacted by the Legislature of the State of Florida:

72

73 | Section 1. Section 255.251, Florida Statutes, is amended to
74 | read:

75 | 255.251 Energy Conservation and Sustainable ~~in~~ Buildings
76 | Act; short title.--This act may ~~shall~~ be cited as the "Florida
77 | Energy Conservation and Sustainable ~~in~~ Buildings Act ~~of 1974.~~"

78 | Section 2. Section 255.252, Florida Statutes, is amended to
79 | read:

80 | 255.252 Findings and intent.--

81 | (1) Operating and maintenance expenditures associated with
82 | energy equipment and with energy consumed in state-financed and
83 | leased buildings represent a significant cost over the life of a
84 | building. Energy conserved by appropriate building design not
85 | only reduces the demand for energy but also reduces costs for
86 | building operation. ~~For example, commercial buildings are~~
87 | ~~estimated to use from 20 to 80 percent more energy than would be~~



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88 ~~required if energy conserving designs were used.~~ The size,
89 design, orientation, and operability of windows, the ratio of
90 ventilating air to ~~air~~ heated or cooled air, the level of
91 lighting consonant with space-use requirements, the handling of
92 occupancy loads, and the ability to zone off areas not requiring
93 equivalent levels of heating or cooling are ~~but~~ a few of the
94 factors ~~considerations necessary to~~ consider when conserving
95 energy.

96 (2) Significant efforts are needed to build energy-
97 efficient state-owned buildings that meet environmental standards
98 ~~underway by the General Services Administration, the National~~
99 ~~Institute of Standards and Technology, and others to detail the~~
100 ~~considerations and practices for energy conservation in~~
101 ~~buildings~~. Most important is that energy-efficient designs
102 provide energy savings over the life of the building structure.
103 ~~Conversely, energy inefficient designs cause excess and wasteful~~
104 ~~energy use and high costs over that life.~~ With buildings lasting
105 many decades and with energy costs escalating rapidly, it is
106 essential that the costs of operation and maintenance for energy-
107 using equipment and sustainable materials be included in all
108 design proposals for state-owned ~~state~~ buildings.

109 (3) In order for ~~that such~~ energy-efficiency and
110 sustainable materials considerations to become a function of
111 building design, and also a model for future application in the
112 private sector, it shall be the policy of the state that
113 buildings constructed and financed by the state be designed and
114 constructed to meet the United States Green Building Council
115 (USGBC) Leadership in Energy and Environmental Design (LEED)
116 rating system, Green Building Initiative's Green Globes rating
117 system, Florida Green Building Coalition standards, or a



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118 nationally recognized, high-performance green building rating
119 system as approved by the department ~~in a manner which will~~
120 ~~minimize the consumption of energy used in the operation and~~
121 ~~maintenance of such buildings.~~ It is further the policy of the
122 state, when economically feasible, to retrofit existing state-
123 owned buildings in a manner that ~~which~~ will minimize the
124 consumption of energy used in the operation and maintenance of
125 such buildings.

126 (4) In addition to designing and constructing new buildings
127 to be energy efficient ~~energy-efficient~~, it shall be the policy
128 of the state to operate, maintain, and renovate existing state-
129 owned ~~state~~ facilities, or provide for their renovation, in a
130 manner that ~~which~~ will minimize energy consumption and maximize
131 their sustainability as well as ensure that facilities leased by
132 the state are operated so as to minimize energy use. Agencies are
133 encouraged to consider shared savings financing of such energy
134 projects, using contracts that ~~which~~ split the resulting savings
135 for a specified period of time between the agency and the private
136 firm or cogeneration contracts which otherwise permit the state
137 to lower its energy costs. Such energy contracts may be funded
138 from the operating budget.

139 (5) Each state agency must identify and compile a list of
140 all state-owned buildings within its inventory that it determines
141 are suitable for a guaranteed energy performance savings contract
142 pursuant to s. 489.145. The list shall be submitted to the
143 Department of Management Services by December 31, 2008, and shall
144 include any criteria used to determine suitability. The list of
145 suitable buildings shall be developed from the list of state-
146 owned facilities that are more than 5,000 square feet in area and
147 for which the agency is responsible for paying the expenses of



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148 utilities and other operating expenses related to energy use. In
149 consultation with each department secretary or director, by March
150 1, 2009, the Department of Management Services shall evaluate
151 each agency's facilities that are suitable for energy
152 conservation projects and shall develop an energy efficiency
153 project schedule based on factors such as project magnitude,
154 efficiency and effectiveness of energy conservation measures to
155 be implemented, and other factors that may prove to be
156 advantageous to pursue. The schedule shall provide a deadline for
157 guaranteed energy performance savings contract improvements to be
158 made to the state-owned buildings.

159 Section 3. Subsections (6) and (7) are added to section
160 255.253, Florida Statutes, to read:

161 255.253 Definitions; ss. 255.251-255.258.--

162 (6) "Sustainable building" means a building that is healthy
163 and comfortable for its occupants and is economical to operate
164 while conserving resources, including energy, water, raw
165 materials, and land, and minimizing the generation of toxic
166 materials and waste in its design, construction, landscaping, and
167 operation.

168 (7) "Sustainable building rating" means a rating
169 established by the United States Green Building Council (USGBC)
170 Leadership in Energy and Environmental Design (LEED) rating
171 system, Green Building Initiative's Green Globes rating system,
172 the Florida Green Building Coalition standards, or a nationally
173 recognized, high-performance green building rating system
174 approved by the department.

175 Section 4. Section 255.254, Florida Statutes, is amended to
176 read:

177 255.254 ~~No Facility constructed or leased without life-~~



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178 cycle costs analysis.--

179 (1) ~~A No~~ state agency may not ~~shall lease,~~ construct, or
180 have constructed, ~~within limits prescribed herein,~~ a facility
181 without having secured from the department an a proper evaluation
182 of the proposed facility's life-cycle costs based on sustainable
183 building ratings, ~~as computed by an architect or engineer.~~
184 Furthermore, construction shall proceed only upon disclosing, ~~for~~
185 ~~the facility chosen,~~ the facility's life-cycle costs as
186 determined in s. 255.255, its sustainable building rating goal,
187 and the capitalization of the initial construction costs of the
188 building. In addition to its sustainable building rating goal,
189 the life-cycle costs shall be a primary consideration in the
190 selection of a building design. ~~Such analysis shall be required~~
191 ~~only for construction of buildings with an area of 5,000 square~~
192 ~~feet or greater.~~ For leased buildings of 5,000 ~~areas of 20,000~~
193 square feet or greater within a given building boundary, an
194 energy performance a life-cycle analysis shall be performed, and
195 a lease may ~~shall only~~ be made only if ~~where~~ there is a showing
196 that the energy life-cycle costs incurred by the state are
197 minimal compared to those of available like facilities.

198 (2) ~~A On and after January 1, 1979,~~ no state agency may not
199 ~~shall~~ initiate construction or have construction initiated, prior
200 to obtaining approval ~~thereof~~ by the department, on a facility or
201 self-contained unit of any facility, the design and construction
202 of which incorporates or contemplates the use of an energy system
203 other than a solar energy system, if ~~when~~ the life-cycle costs
204 analysis prepared by the department has determined that a solar
205 energy system is the most cost-efficient energy system for the
206 facility or unit.

207 (3) If a ~~After September 30, 1985,~~ when any state agency



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208 must replace or supplement major items of energy-consuming
209 equipment in an existing state-owned facility ~~or leased~~
210 ~~facilities~~ or any self-contained unit of a ~~any~~ facility with
211 other major items of energy-consuming equipment, the selection of
212 such items shall be made on the basis of a life-cycle cost
213 analysis of alternatives in accordance with rules adopted
214 ~~promulgated~~ by the department under s. 255.255.

215 Section 5. Subsection (1) of section 255.255, Florida
216 Statutes, is amended to read:

217 255.255 Life-cycle costs.--

218 (1) The department shall adopt ~~promulgate~~ rules and
219 procedures, including energy conservation performance guidelines
220 based on sustainable building ratings, for conducting ~~a~~ life-
221 cycle cost analysis of alternative architectural and engineering
222 designs and alternative major items of energy-consuming equipment
223 to be retrofitted in existing state-owned or leased facilities
224 and for developing energy performance indices to evaluate the
225 efficiency of energy utilization for competing designs in the
226 construction of state-owned ~~state-financed~~ and leased facilities.

227 Section 6. Paragraph (b) of subsection (2) and subsection
228 (5) of section 287.063, Florida Statutes, are amended to read:

229 287.063 Deferred-payment commodity contracts; preaudit
230 review.--

231 (2)

232 (b) The Chief Financial Officer shall establish, by rule,
233 criteria for approving purchases made under deferred-payment
234 contracts which require the payment of interest. Criteria shall
235 include, but not be limited to, the following provisions:

236 1. A ~~No~~ contract may not ~~shall~~ be approved in which
237 interest exceeds the statutory ceiling contained in this section.



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238 However, the interest component of any master equipment financing
239 agreement entered into for the purpose of consolidated financing
240 of a deferred-payment, installment sale, or lease-purchase shall
241 be deemed to comply with the interest rate limitation of this
242 section ~~if so long as~~ the interest component of every interagency
243 agreement under such master equipment financing agreement
244 complies with the interest rate limitation of this section.

245 2. A ~~No~~ deferred-payment purchase for less than \$30,000 may
246 not shall be approved, unless it can be satisfactorily
247 demonstrated and documented to the Chief Financial Officer that
248 failure to make such deferred-payment purchase would adversely
249 affect an agency in the performance of its duties. However, the
250 Chief Financial Officer may approve any deferred-payment purchase
251 if the Chief Financial Officer determines that such purchase is
252 economically beneficial to the state.

253 ~~3. No agency shall obligate an annualized amount of~~
254 ~~payments for deferred-payment purchases in excess of current~~
255 ~~operating capital outlay appropriations, unless specifically~~
256 ~~authorized by law or unless it can be satisfactorily demonstrated~~
257 ~~and documented to the Chief Financial Officer that failure to~~
258 ~~make such deferred-payment purchase would adversely affect an~~
259 ~~agency in the performance of its duties.~~

260 3.4. A ~~No~~ contract may not shall be approved which extends
261 payment beyond 5 years, unless it can be satisfactorily
262 demonstrated and documented to the Chief Financial Officer that
263 failure to make such deferred-payment purchase would adversely
264 affect an agency in the performance of its duties. The payment
265 term may not exceed the useful life of the equipment unless the
266 contract provides for the replacement or the extension of the
267 useful life of the equipment during the term of the loan.



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268 (5) For purposes of this section, the annualized amount of
269 any ~~such~~ deferred payment commodity contract must be supported
270 from available recurring funds appropriated to the agency in an
271 appropriation category, ~~other than the expense appropriation~~
272 ~~category~~ as defined in chapter 216, which ~~that~~ the Chief
273 Financial Officer has determined is appropriate or which ~~that~~ the
274 Legislature has designated for payment of the obligation incurred
275 under this section.

276 Section 7. Subsections (10) and (11) of section 287.064,
277 Florida Statutes, are amended to read:

278 287.064 Consolidated financing of deferred-payment
279 purchases.--

280 (10) Costs incurred pursuant to a guaranteed energy
281 performance savings contract, including the cost of energy
282 conservation measures, ~~each~~ as defined in s. 489.145, may be
283 financed pursuant to a master equipment financing agreement;
284 however, the costs of training, operation, and maintenance may
285 not be financed. The period of time for repayment of the funds
286 drawn pursuant to the master equipment financing agreement under
287 this subsection may exceed 5 years but may not exceed 20 ~~10~~ years
288 for energy conservation measures pursuant to s. 489.145,
289 excluding the costs of training, operation, and maintenance. The
290 guaranteed energy performance savings contractor shall provide
291 for the replacement or the extension of the useful life of the
292 equipment during the term of the contract.

293 (11) For purposes of consolidated financing of deferred
294 payment commodity contracts under this section by a state agency,
295 the annualized amount of any such contract must be supported from
296 available recurring funds appropriated to the agency in an
297 appropriation category, ~~other than the expense appropriation~~



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298 ~~category~~ as defined in chapter 216, which ~~that~~ the Chief
299 Financial Officer has determined is appropriate or that the
300 Legislature has designated for payment of the obligation incurred
301 under this section.

302 Section 8. Subsections (12), (13), (14), and (15) are added
303 to section 287.16, Florida Statutes, to read:

304 287.16 Powers and duties of department.--The Department of
305 Management Services shall have the following powers, duties, and
306 responsibilities:

307 (12) To assess the transportation-related energy use of
308 state agencies, including a fleet fuel analysis of motor vehicles
309 and light trucks by class.

310 (13) To require scheduled vehicle maintenance on all agency
311 and state fleet motor vehicles. Compliance shall be measured
312 through the department's Equipment Management Information System
313 with annual reports to the Legislature.

314 (14) To require the use of ethanol and biodiesel when
315 locally available and to encourage the development of renewable
316 fuel fueling facilities for both public and private-sector motor
317 vehicles.

318 (15) To conduct an inventory and determine the percentage
319 of motor vehicles in use purchased with state funds which are
320 flexible motor fuel vehicles or hybrid motor vehicles.
321 Notwithstanding s. 287.151, the department shall purchase over
322 the next 3 years only vehicles that have the greatest fuel
323 efficiency in a given class. In implementing this provision, the
324 department may exempt special purpose, law enforcement, and heavy
325 duty vehicles.

326 Section 9. Section 377.907, Florida Statutes, is created to
327 read:



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328 377.907 Lead-by-Example initiatives.--

329 (1) The Florida Energy Commission shall develop Lead-by-
330 Example initiatives to help state, county, and local governments
331 save money on energy costs. The commission shall also develop
332 recommendations to promote energy efficiency and clean energy
333 technologies by the public and private sectors.

334 (a) Recommendations by the commission shall, at a minimum,
335 include a requirement that all new state buildings be built in
336 compliance with Leadership in Energy and Environmental Design
337 (LEED) standards, Green Globes standards, Florida Green Building
338 Coalition standards, or any other nationally recognized and
339 verified energy efficiency building standard.

340 (b) The commission shall recommend energy efficient
341 operating policies for state buildings to be implemented by the
342 Florida Energy Office or appropriate state agency.

343 (2) The commission shall submit its first recommendations
344 in its annual report to the Legislature by December 31, 2009.
345 Periodically thereafter, the commission shall submit
346 recommendations for Lead-by-Example initiatives to the
347 Legislature.

348 Section 10. Section 489.145, Florida Statutes, is amended
349 to read:

350 489.145 Guaranteed energy performance savings
351 contracting.--

352 (1) SHORT TITLE.--This section may be cited as the
353 "Guaranteed Energy Performance Savings Contracting Act."

354 (2) LEGISLATIVE FINDINGS.--The Legislature finds that
355 investment in energy conservation measures in agency facilities
356 can reduce the amount of energy consumed and produce immediate
357 and long-term savings. It is therefore the policy of this state



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358 | to encourage agencies to invest in energy conservation measures
359 | ~~in order that reduce energy consumption, produce a cost savings~~
360 | ~~for the agency, and improve the quality of indoor air in public~~
361 | ~~facilities and to operate, maintain, and, when economically~~
362 | ~~feasible, build or renovate existing agency facilities in such a~~
363 | ~~manner as~~ to minimize energy consumption and maximize energy
364 | savings. It is further the policy of this state to encourage
365 | agencies to reinvest any energy savings resulting from energy
366 | conservation measures in additional energy conservation efforts.

367 | (3) DEFINITIONS.--As used in this section, the term:

368 | (a) "Agency" means the state, a municipality, or a
369 | political subdivision.

370 | (b) "Energy conservation measure" means a ~~training program,~~
371 | ~~facility alteration,~~ or an equipment purchase to be used in new
372 | construction, including an addition to an existing facility,
373 | which reduces energy or energy-related operating costs and
374 | includes, but is not limited to:

375 | 1. Insulation of the facility structure and systems within
376 | the facility.

377 | 2. Storm windows and doors, caulking or weatherstripping,
378 | multiglazed windows and doors, heat-absorbing, or heat-
379 | reflective, glazed and coated window and door systems, additional
380 | glazing, reductions in glass area, and other window and door
381 | system modifications that reduce energy consumption.

382 | 3. Automatic energy control systems.

383 | 4. Heating, ventilating, or air-conditioning system
384 | modifications or replacements.

385 | 5. Replacement or modifications of lighting fixtures to
386 | increase the energy efficiency of the lighting system, which, at
387 | a minimum, conforms ~~must conform~~ to the applicable state or local



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388 building code.

389 6. Energy recovery systems.

390 7. Cogeneration systems that produce steam or forms of
391 energy such as heat, as well as electricity, for use primarily
392 within a facility or complex of facilities.

393 8. Energy conservation measures that reduce Btu, kW, or kWh
394 consumed or provide long-term operating cost reductions ~~or~~
395 ~~significantly reduce Btu consumed.~~

396 9. Renewable energy systems, such as solar, biomass, or
397 wind systems.

398 10. Devices that reduce water consumption or sewer charges.

399 11. Storage systems, such as fuel cells and thermal
400 storage.

401 12. Generating technologies, such as microturbines.

402 13. Any other repair, replacement, or upgrade of existing
403 equipment.

404 (c) "Energy cost savings" means a measured reduction in the
405 cost of fuel, energy consumption, and stipulated operation and
406 maintenance created from the implementation of one or more energy
407 conservation measures when compared with an established baseline
408 for the previous cost of fuel, energy consumption, and stipulated
409 operation and maintenance.

410 (d) "Guaranteed energy performance savings contract" means
411 a contract for the evaluation, recommendation, and implementation
412 of energy conservation measures or energy-related operational
413 savings measures, which, at a minimum, ~~shall~~ include:

414 1. The design and installation of equipment to implement
415 one or more of such measures and, if applicable, operation and
416 maintenance of such measures.

417 2. The amount of any actual annual savings that meet or



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418 | exceed total annual contract payments made by the agency for the
419 | contract and may include allowable cost avoidance. As used in
420 | this section, allowable cost-avoidance calculations include
421 | avoided provable budgeted costs contained in a capital
422 | replacement plan less the current undepreciated value of replaced
423 | equipment and the replacement cost of the new equipment.

424 | 3. The finance charges incurred by the agency over the life
425 | of the contract.

426 | (e) "Guaranteed energy performance savings contractor"
427 | means a person or business that is licensed under chapter 471,
428 | chapter 481, or this chapter, and is experienced in the analysis,
429 | design, implementation, or installation of energy conservation
430 | measures through energy performance contracts.

431 | (4) PROCEDURES.--

432 | (a) An agency may enter into a guaranteed energy
433 | performance savings contract with a guaranteed energy performance
434 | savings contractor to ~~significantly~~ reduce energy consumption or
435 | energy-related operating costs of an agency facility through one
436 | or more energy conservation measures.

437 | (b) Before design and installation of energy conservation
438 | measures, the agency must obtain from a guaranteed energy
439 | performance savings contractor a report that summarizes the costs
440 | associated with ~~the~~ energy conservation or energy-related
441 | operational-cost-savings measures and provides an estimate of the
442 | amount of the ~~energy~~ cost savings. The agency and the guaranteed
443 | energy performance savings contractor may enter into a separate
444 | agreement to pay for costs associated with the preparation and
445 | delivery of the report; however, payment to the contractor shall
446 | be contingent upon the report's projection of energy or
447 | operational cost savings being equal to or greater than the total



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448 | projected costs of the design and installation of the report's
449 | energy conservation measures.

450 | (c) The agency may enter into a guaranteed energy
451 | performance savings contract with a guaranteed energy performance
452 | savings contractor if the agency finds that the amount the agency
453 | would spend on the energy conservation or energy-related cost-
454 | savings measures are ~~will~~ not likely to exceed the amount of the
455 | energy or energy-related cost savings for up to 20 years after
456 | ~~from~~ the date of installation, based on the life cycle cost
457 | calculations provided in s. 255.255, if the recommendations in
458 | the report are ~~were~~ followed and if the qualified provider or
459 | providers give a written guarantee that the energy or energy-
460 | related cost savings will meet or exceed the costs of the system.
461 | However, actual computed cost savings must meet or exceed the
462 | estimated cost savings provided during program approval. Baseline
463 | adjustments used in the calculations must be specified in the
464 | contract. The contract may provide for installment payments for
465 | up to a period not to exceed 20 years.

466 | (d) A guaranteed energy performance savings contractor must
467 | be selected in compliance with s. 287.055; except that if fewer
468 | than three firms are qualified to perform the required services,
469 | the requirement for agency selection of three firms, ~~as provided~~
470 | in s. 287.055(4)(b), and the bid requirements of s. 287.057 do
471 | not apply.

472 | (e) Before entering into a guaranteed energy performance
473 | savings contract, an agency must provide published notice of the
474 | meeting in which it proposes to award the contract, the names of
475 | the parties to the proposed contract, and the contract's purpose.

476 | (f) A guaranteed energy performance savings contract may
477 | provide for financing, including tax-exempt financing, by a third



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478 party. The contract for third party financing may be separate
479 from the energy performance contract. A separate contract for
480 third party financing must include a provision that the third
481 party financier may ~~must~~ not be granted rights or privileges that
482 exceed the rights and privileges available to the guaranteed
483 energy performance savings contractor.

484 (g) Financing for guaranteed energy performance savings
485 contracts may be provided under the authority of s. 287.064.

486 (h) The Chief Financial Officer shall review proposals to
487 ensure that the most effective financing is being used.

488 (i) ~~(g)~~ In determining the amount the agency will finance to
489 acquire the energy conservation measures, the agency may reduce
490 such amount by the application of any grant moneys, rebates, or
491 capital funding available to the agency for the purpose of buying
492 down the cost of the guaranteed energy performance savings
493 contract. However, in calculating the life cycle cost ~~as~~ required
494 in paragraph (c), the agency may ~~shall~~ not apply any grants,
495 rebates, or capital funding.

496 (5) CONTRACT PROVISIONS.--

497 (a) A guaranteed energy performance savings contract must
498 include a written guarantee that may include, but is not limited
499 to ~~the form of~~, a letter of credit, insurance policy, or
500 corporate guarantee by the guaranteed energy performance savings
501 contractor that annual energy cost savings shall ~~will~~ meet or
502 exceed the amortized cost of energy conservation measures.

503 (b) The guaranteed energy performance savings contract must
504 provide that all payments, except obligations on termination of
505 the contract before its expiration, may be made over time, but
506 not ~~to~~ exceed 20 years after ~~from~~ the date of complete
507 installation and acceptance by the agency, and that the annual



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508 savings are guaranteed to the extent necessary to make annual
509 payments to satisfy the guaranteed energy performance savings
510 contract.

511 (c) The guaranteed energy performance savings contract must
512 require that the ~~guaranteed energy performance savings~~ contractor
513 to whom the contract is awarded provide a 100-percent public
514 construction bond to the agency for its faithful performance, as
515 required by s. 255.05.

516 (d) The guaranteed energy performance savings contract may
517 contain a provision allocating to the parties to the contract any
518 annual energy cost savings that exceed the amount of the energy
519 cost savings guaranteed in the contract.

520 (e) The guaranteed energy performance savings contract must
521 ~~shall~~ require the ~~guaranteed energy performance savings~~
522 contractor to provide to the agency an annual reconciliation of
523 the guaranteed energy or energy-related cost savings. If the
524 reconciliation reveals a shortfall in annual energy cost savings,
525 the guaranteed energy performance savings contractor is liable
526 for such shortfall. If the reconciliation reveals an excess in
527 annual ~~energy~~ cost savings, the excess savings may be allocated
528 under paragraph (d) but may not be used to cover potential energy
529 or energy-related cost savings shortages in subsequent contract
530 years.

531 (f) The guaranteed energy performance savings contract must
532 provide for payments of not less than one-twentieth of the price
533 to be paid within 2 years after ~~from~~ the date of the complete
534 installation and acceptance by the agency using straight-line
535 amortization for the term of the loan, and the remaining costs to
536 be paid at least quarterly, not to exceed a 20-year term, based
537 on life cycle cost calculations.



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538 (g) The guaranteed energy performance savings contract may
539 extend beyond the fiscal year in which it becomes effective;
540 however, the term of any contract expires at the end of each
541 fiscal year and may be automatically renewed annually for up to
542 20 years, subject to the agency making sufficient annual
543 appropriations based upon continued realized energy savings.

544 (h) The guaranteed energy performance savings contract must
545 stipulate that it does not constitute a debt, liability, or
546 obligation of the state.

547 (6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.--The
548 Department of Management Services, with the assistance of the
549 ~~Office of the Chief Financial Officer, shall may,~~ within
550 available resources, provide technical content assistance to
551 state agencies contracting for energy conservation measures and
552 engage in other activities considered appropriate by the
553 department for promoting and facilitating guaranteed energy
554 performance contracting by state agencies. The ~~Office of the~~
555 Chief Financial Officer, with the assistance of the Department of
556 Management Services, ~~shall may, within available resources,~~
557 develop model contractual and related documents for use by state
558 agencies. Prior to entering into a guaranteed energy performance
559 savings contract, any proposed contract or lease for third-party
560 financing, or any combination of such contracts must be submitted
561 by the agency, ~~a state agency shall submit such proposed contract~~
562 ~~or lease~~ to the ~~Office of the~~ Chief Financial Officer for review
563 and approval. The proposed contract or lease submitted must
564 include:

565 (a) The supporting information required by s.
566 216.023(4)(a)9.

567 (b) Documentation demonstrating the availability of



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568 recurring funds as required by ss. 287.063(5) and 287.064(11).

569 (c) Approval by the agency head or designee.

570 (d) An agency measurement and verification plan to monitor
571 cost savings.

572 (7) FUNDING SUPPORT.--For purposes of consolidated
573 financing of deferred payment commodity contracts under this
574 section by a state agency, the contract must be supported from
575 available recurring funds appropriated to the agency in an
576 appropriation category, as defined in chapter 216, which the
577 Chief Financial Officer has determined is appropriate or which
578 the Legislature has designated for payment of the obligation
579 incurred. The Chief Financial Officer may not approve any
580 contract that does not meet the requirements of this section.

581 Section 11. Section 1013.441, Florida Statutes, is created
582 to read:

583 1013.441 Green Schools Pilot Project.--

584 (1) The Legislature finds that it is cost-effective and
585 healthy for the public and the environment to build schools that
586 maximize low-water usage and incorporate energy efficiencies,
587 renewable energy, and recycling technologies into the school's
588 construction. Therefore, the Legislature establishes the Green
589 Schools Pilot Project in selected school districts for the
590 purpose of incorporating Leadership in Energy and Environmental
591 Design (LEED) silver-level or the Green Globes two-globe rating
592 or better building-certification standards into every new
593 educational building construction project and, when feasible,
594 every educational building renovation project.

595 (2) LEED building certification standards are defined by
596 the United States Green Building Council and the Green Globes
597 certification standards are defined by the Green Building



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598 Initiative. Both standards address the total effect that new
599 buildings have on the environment in order to maximize energy
600 efficiency and to minimize adverse effects on the environment.

601 (3) For purposes of this section, the term "additional
602 costs" means the expenditures that are necessary to build a
603 complete school to LEED silver-level or Green Globes two-globe
604 or better building-certification standards but that exceed the
605 expenditures necessary to build a complete school otherwise in
606 compliance with this chapter. Such additional costs may include,
607 but are not limited to, registration and certification fees
608 charged for certifying the school as meeting LEED silver-level or
609 Green Globes two-globe or better building-certification
610 standards.

611 (4) The Department of Education, in consultation with the
612 Florida Energy Office, shall develop by August 1, 2008, an
613 application process for school districts to participate in the
614 pilot project.

615 (a) Three school districts shall be selected for
616 participation by the State Board of Education by January 1, 2009.
617 One school district shall be in a county having a population of 1
618 million or more residents; one school district shall be in a
619 county having a population of 250,000 to 999,999 residents; and
620 one school district shall be in a county having a population of
621 fewer than 250,000 residents. School districts selected to
622 participate shall, to the greatest extent possible, represent
623 geographically different regions of the state.

624 (b) At a minimum, each school district selected must:

625 1. Demonstrate that it implements sound financial
626 management practices by producing documentation that indicates
627 that for the preceding 3 years the school district has had no



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628 material weaknesses or instances of material noncompliance noted
629 in its annual audits required under s. 218.39.

630 2. Engage a design team that has demonstrated knowledge and
631 experience in high-performance green building construction.

632 3. Commit to building at least one complete school to LEED
633 silver-level or Green Globes two-globe or better building-
634 certification standards. A school built to such building-
635 certification standards shall be designated as a "Green School."

636 (c) When selecting school districts to participate in the
637 pilot project, evaluation criteria established by the State Board
638 of Education may include, but need not be limited to, the
639 selection of school districts that demonstrate a high percentage
640 of environmentally inefficient schools or school districts that
641 propose innovative methods for improving water savings, energy
642 efficiency, or indoor environmental quality.

643 (5) From funds appropriated for the Green Schools Pilot
644 Program, the department shall distribute to each participating
645 school district an amount sufficient to fund the additional costs
646 required to build one complete school to LEED silver-level or
647 Green Globes two-globe or better building-certification
648 standards.

649 (a) If appropriated funds are insufficient to fund the
650 total of additional costs required to build three complete
651 schools to LEED silver-level or Green Globes two-globe or better
652 building-certification standards, the department shall prorate
653 funds available and make distributions based on the ratio of each
654 school's additional costs relative to the total of additional
655 costs for the three schools.

656 (b) If appropriated funds remain after the distribution,
657 such funds may be distributed by the department to one or more of



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658 the participating school districts to fund the additional costs
659 required to build other new schools or to renovate existing
660 schools to LEED silver-level or Green Globes two-globe or better
661 building-certification standards.

662 (c) Participating school districts must annually report to
663 the department the expenditure of funds received under this
664 subsection. The reports must be open to inspection and
665 examination by the Auditor General. A participating school
666 district must return to the department:

667 1. Any funds found by the Auditor General to have been
668 improperly expended.

669 2. Funds received for the construction or renovation of a
670 school if LEED silver-level or Green Globes two-globe
671 certification or better is not obtained for the school within 1
672 year after its completion.

673 (6) Each participating school district shall prepare and
674 submit to the Governor, the President of the Senate, the Speaker
675 of the House of Representatives, and the Commissioner of
676 Education a report on the effects Green Schools have had on
677 student performance and health, operational costs, energy
678 consumption, and the environment in the district by July 1 of the
679 year after a Green school has been in full operation for 3 years.

680 Section 12. State fleet biodiesel usage.--

681 (1) By July 1, 2009, a minimum of 5 percent, by January 1,
682 2010, a minimum of 10 percent, and by January 1, 2011, a minimum
683 of 20 percent of total diesel fuel purchases for use in state-
684 owned diesel vehicles and equipment shall be biodiesel fuel
685 (B20), subject to availability.

686 (2) By July 1, 2009, a minimum of 5 percent, by January 1,
687 2010, a minimum of 10 percent, and by January 1, 2011, a minimum



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688 of 20 percent of total fuel purchases for use by state-owned
689 flex-fuel vehicles shall be ethanol, subject to availability.

690 (3) The Department of Management Services shall administer
691 this section.

692 (4) The Department of Management Services shall report to
693 the Legislature on or before March 1, 2009, and annually
694 thereafter on the extent of biodiesel and ethanol use in the
695 state fleet. The report must contain the number of gallons
696 purchased since July 1, 2008, the average price of biodiesel and
697 ethanol, and a description of fleet performance.

698 Section 13. School district biodiesel usage.--

699 (1) By January 1, 2009, a minimum of 20 percent of total
700 diesel fuel purchases for use by school districts shall be
701 biodiesel fuel (B20), subject to availability.

702 (2) If a school district contracts with another government
703 entity or private entity to provide transportation services for
704 any of its pupils, the biodiesel fuel requirement established
705 under subsection (1) shall be part of that contract. However,
706 this requirement applies only to contracts entered into on or
707 after July 1, 2008.

708 Section 14. This act shall take effect July 1, 2008.