

PLEASE NOTE: In most BUT NOT ALL instances, the page and line numbering of bills on this web site correspond to the page and line numbering of the official printed version of the bills.

House Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

# HOUSE BILL 2703

AN ACT

AMENDING SECTIONS 34-455 AND 34-456, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF ADMINISTRATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 34-455, Arizona Revised Statutes, is amended to  
3 read:

4 34-455. Performance contracting; definition

5 A. The department of administration shall develop and implement a  
6 program to enter into performance contracts solely for the purpose of  
7 achieving energy savings as measured in dollars and benefits ancillary to  
8 that purpose. Each contract may be for a period of not more than fifteen  
9 years. The contract shall provide that the contractor bear all costs  
10 associated with implementation of energy conservation measures to include  
11 audits, design equipment, purchase and installation, metering, interest on  
12 monies borrowed, ~~AND~~ training, and the contract shall include contractor  
13 profit. The contractor shall recover an amount not to exceed the summation  
14 of these costs and the agreed upon profit. Energy dollar savings realized as  
15 a result of a performance contract under this section shall be shared at a  
16 negotiated rate between the state and the contractor, until such time as the  
17 contractor has recovered the amount specified in the contract, at which time  
18 all savings shall accrue to the state. Interest rates charged on each  
19 contract ~~will~~ **SHALL** be mutually agreed upon by the department of  
20 administration and the contractor. Contracts shall contain contingency  
21 provisions agreed upon by the department and the contractor for cases where  
22 measured energy dollar savings do not meet predicted energy dollar savings.

23 B. For the purposes of this section, "energy dollar savings" means a  
24 reduction in the cost of energy, from a base **ENERGY** cost established through  
25 a methodology set forth in the contract, utilized in an existing **OR NEW** state  
26 owned **OR LEASED** building as a result of either:

27 1. The lease or purchase of operating equipment, improvements, altered  
28 operation and maintenance, ~~or~~ technical services **OR RENEWABLE ENERGY SOURCES**.

29 2. The increased efficient use of existing energy sources by  
30 cogeneration of heat recovery.

31 Sec. 2. Section 34-456, Arizona Revised Statutes, is amended to read:

32 34-456. Use of energy savings; definitions

33 A. Fifty per cent of the amount of **AFTER-CONTRACT** cost savings  
34 realized by the department of administration for that year from contracts  
35 entered into pursuant to section 34-455 shall remain available without  
36 further appropriation to undertake additional energy conservation  
37 measures. Funds generated as a result of these contracts shall be known as  
38 "energy conservation funds". **THE DEPARTMENT SHALL USE THE ENERGY**  
39 **CONSERVATION FUNDS TO IMPLEMENT ADDITIONAL ENERGY CONSERVATION MEASURES IN**  
40 **STATE FACILITIES**. The department shall keep a separate accounting of these  
41 **AFTER-CONTRACT** cost savings and provide an annual report to the speaker of  
42 the house of representatives, the president of the senate and the governor  
43 detailing account balances, amounts spent on additional conservation  
44 measures, energy and dollar savings accrued as a result of expenditures from

1 the fund and projected utilization of the funds. These funds shall not be  
2 subject to the provisions of section 35-190.

3 B. For the purposes of this section, ~~—~~ :

4 1. "AFTER-CONTRACT COST SAVINGS" MEANS THE PORTION OF ENERGY DOLLAR  
5 SAVINGS FOR THAT YEAR THAT REMAIN AFTER ALL PERFORMANCE CONTRACT COSTS ARE  
6 PAID FOR THAT YEAR.

7 2. "Energy conservation measures" means measures that are applied to a  
8 state building that improve energy efficiency and are life cycle cost  
9 effective and involve energy conservation, cogeneration facilities, renewable  
10 energy sources, improvements in operations and maintenance efficiencies or  
11 retrofit activities.