

2025 Regular Session

SENATE BILL NO. 212

BY SENATOR MCMATH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CONTRACTS. Provides for energy efficiency contracts. (8/1/25)

1 AN ACT

2 To amend and reenact R.S. 33:4547.1(C), (E)(1), (F)(2)(g) and 4547.2(A) through (F), to
3 enact R.S. 33:4547.1(G) through (I), and to repeal R.S. 33:4547.2(G) and (H),
4 relative to performance-based energy efficiency contracts; to provide for
5 requirements for political subdivisions to procure a contract; to provide for
6 definitions; to authorize political subdivisions to use requests for qualifications; to
7 provide for procurement procedures; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 33:4547.1(C), (E)(1), (F)(2)(g) and 4547.2(A) through (F) are hereby
10 amended and reenacted and R.S. 33:4547.1(G) through (I) are hereby enacted to read as
11 follows:

12 §4547.1. Authorization; performance-based energy efficiency contracts

13 * * *

14 C. "Annual energy savings" shall mean, when calculating annual energy cost
15 savings attributable to the services or equipment installed pursuant to a
16 performance-based energy efficiency contract as defined in R.S. 39:1484(14), the
17 savings in **reductions in utility costs, including** electricity, gas, water, propane, oil,

1 diesel, steam or other fuels like utility costs increased revenues obtained from
2 upgrades or modifications to a water, wastewater, gas or electric utility
3 infrastructure, systems or accounting and billing systems and shall include future
4 capital expenditures avoided and maintenance savings. Capital replacement
5 expenditures avoided and maintenance savings shall be itemized separately., and
6 **may include capital cost avoidance, deferred maintenance, labor savings, and**
7 **increased revenues from utility infrastructure upgrades or optimization. All**
8 **savings shall be supported by verifiable methods under accepted measurement**
9 **and verification protocols.**

10 * * *

11 E.(1) Prior to award of any performance-based energy efficiency contract, the
12 a political subdivision shall ~~select~~ **engage** an energy efficiency independent
13 third-party evaluation consultant to review and evaluate the submitted proposals.

14 * * *

15 F.

16 * * *

17 (2) Any contract entered into pursuant to this Chapter shall include the total
18 units of energy saved, the method, device or financial arrangement to establish a firm
19 amount for the savings, the cost per unit of energy, and, if applicable, the basis for
20 any adjustment in the stated cost for the term of the contract, and for each energy
21 saving measure included in the contract, shall also provide the following:

22 * * *

23 (g) All savings shall be guaranteed and measured on an annual basis, **unless**
24 **otherwise approved by the energy efficiency independent third party evaluation**
25 **consultant based on the reasonableness of continued savings after measured and**
26 **verified year one performance.**

27 * * *

28 **G.(1) A political subdivision may require the completion of an**
29 **investment grade audit by a qualified proposer prior to executing a**

performance-based energy efficiency contract. The cost of such audit may:

(a) Be reimbursed as part of the executed contract if the proposer is selected; or

(b) Be included in the total project cost financed under the contract.

(2) Political subdivisions may also provide stipends or partial reimbursement for investment grade audits submitted by nonselected proposers, at their discretion.

H. A political subdivision may enter into performance-based energy efficiency contracts in a variety of structures, including but not limited to guaranteed-savings contracts in which payments are contingent upon realized savings.

I.(1) A political subdivision may use a qualifications-based selection process to identify the most qualified energy services provider prior to the development of a comprehensive technical proposal or investment grade audit.

(2) Under this method, the subdivision shall issue a Request For Qualifications (RFQ) that includes evaluation criteria based on provider experience, technical capacity, past performance, financial strength, and project team qualifications and other criteria as determined by the political subdivision.

(3) The political subdivision may then:

(a) Select the highest-ranked firm for contract negotiation; or

(b) Shortlist multiple firms and request technical proposals or investment grade audits in a second phase.

§4547.2. Procedures

A. Notwithstanding any other provision of law to the contrary, a political subdivision shall provide adequate public notice of the request for ~~proposals~~ **qualifications** for performance-based energy efficiency contracts by advertising in its official journal at least once a week for three different weeks. The first advertisement shall appear at least forty-two days before the last day that proposals will be accepted. In addition, written notice shall be mailed to persons, firms, or

1 corporations who are known to be in a position to furnish such services at least forty-
2 two days before the last day that proposals will be accepted.

3 ~~B. The request for proposals shall indicate the relative importance of price~~
4 ~~and other evaluation factors and shall clearly define the criteria to be used in~~
5 ~~evaluating the proposals and the time frames within which the work must be~~
6 ~~completed. Fifty percent of the total weighted evaluation criteria of the proposal shall~~
7 ~~be determined by shortest payback, maximum savings, scope of the work, quality of~~
8 ~~the product, cost of maintenance, and quoted amount of the energy conservation~~
9 ~~measure (hereinafter referred to as ECM) selected.~~

10 ~~C. Every request for proposals shall include the following mandatory~~
11 ~~provisions:~~

12 ~~(1) Each ECM shall be listed separately and for each such proposed ECM the~~
13 ~~energy savings, operational savings, total savings, cost and payback shall be~~
14 ~~provided separately. Energy Conservation Measure (ECM) also means measures that~~
15 ~~are applied to existing buildings that improve energy efficiency and are life cycle~~
16 ~~cost effective. Operational savings means reduction of actual budget line items~~
17 ~~currently being expended or savings realized from the implementation or installation~~
18 ~~of energy cost savings measures.~~

19 ~~(2) Detailed scope shall be provided for each ECM proposed, which describes~~
20 ~~each piece of equipment proposed and provides details for all services proposed.~~

21 ~~(3) The required maintenance that must be performed to guarantee the~~
22 ~~savings forecast shall be described in detail for each ECM proposed and the cost of~~
23 ~~maintenance, if included in the proposed contract.~~

24 ~~D.~~**B.** Award shall be made to the responsible offerer whose ~~proposal~~
25 **response** is determined by the using agency of the governing body of the political
26 subdivision to be the most advantageous, taking into consideration price and the
27 evaluation factors set forth in the request for ~~proposals~~ **qualifications**.

28 ~~E.~~**C.** Written or oral discussions shall be conducted with all responsible
29 offerers who submit ~~proposals~~ **responses** determined to be reasonably susceptible

1 of being selected for award.

2 ~~F.D.~~ A request for ~~proposals~~ **qualifications** or other solicitation may be
3 cancelled or all proposals may be rejected if it is determined that such action is taken
4 in the best interest of the political subdivision.

5 ~~G.E.~~ For any systems, including but not limited to facility automation and
6 control systems proposed pursuant to this Chapter, there shall be provided full
7 capabilities to operate, maintain, repair, update, reconfigure and engineer changes
8 necessary to accommodate facility or operational changes or incorporate new energy
9 savings control strategies. Such shall be available to the using political subdivision
10 or its designee. There is no requirement under this law to provide any political
11 subdivision with access to the operating system of the contractor. However, the user
12 interface software must provide for all capabilities listed in this Section.

13 ~~H.F.~~ Each ~~proposal~~ **request for qualifications** shall clearly identify any and
14 all responsibility of the political subdivision, if any, under the guarantee for each
15 ECM including but not limited to operating hours, maintenance requirements, and
16 operating protocols.

17 Section 2. R.S. 33:4547.2(G) and (H) are hereby repealed.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Senate Legislative Services. The keyword, summary, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

DIGEST

SB 212 Reengrossed

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McMath

Present law (R.S.33:4547.1) authorizes political subdivisions to enter into performance-based energy efficiency contracts for services and equipment.

Present law requires political subdivision to issue requests for proposals to solicit project bids and requires certain information to be included in the bids.

Proposed law changes the method of procurement to requests for qualifications to allow political subdivisions to select a vendor before requiring proposers to complete full project proposals.

Present law requires performance-based energy efficiency contracts to be based on total energy cost savings.

Proposed law retains present law.

Proposed law provides that "annual energy savings" shall mean, when calculating annual energy cost savings attributable to the services or equipment installed pursuant to a performance-based energy efficiency contract as defined in present law, the savings in reductions in utility costs, including electricity, gas, water, propane, oil, diesel, steam or other fuels, and may include capital cost avoidance, deferred maintenance, labor savings, and increased revenues from utility infrastructure upgrades or optimization.

Present law requires political subdivisions to select an energy efficiency independent third-party evaluation consultant to review and evaluate submitted proposals.

Proposed law retains present law.

Proposed law authorizes political subdivisions to require an investment grade audit prior to executing a contract and provides for payments for the audits.

Proposed law authorizes the use of different structures of performance-based energy efficiency contracts.

Effective August 1, 2025.

(Amends R.S. 33:4547.1(C), (E)(1), and (F)(2)(g) and 4547.2(A)-(F); adds R.S. 33:4547.1(G)-(I); repeals R.S. 33:4547.2(G) and (H))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Local and Municipal Affairs to the original bill

1. Changes the requirements of how savings are determined under performance-based energy efficiency contracts.
2. Provides for the definition of "annual energy savings".
3. Removes provision requiring the total proposed project cost to be less than \$500,000 and provides for a third-party consultant irrespective of the proposed project cost.
4. Removes shared services arrangements between two or more political subdivisions.
5. Removes Energy-as-a-Service (EaaS) or subscription-based agreements as a structure for which political subdivision may enter into a performance-based energy efficiency contract.

Senate Floor Amendments to engrossed bill

1. Removes the reference of "shared-savings contract" as an example of one of the structures by which a political subdivision may enter into performance based energy contracts.
2. Removes provision that no proposer would be required to submit a technical proposal, savings guarantee, or investment grade audit unless selected or short listed under the Request for Qualifications phase.
3. Makes technical changes.