

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0757.01 Nicole Myers x4326

SENATE BILL 15-134

SENATE SPONSORSHIP

Jones,

HOUSE SPONSORSHIP

Tyler,

Senate Committees

Agriculture, Natural Resources, & Energy

House Committees

A BILL FOR AN ACT

101 CONCERNING ENERGY COST-SAVINGS CONTRACTS ENTERED INTO BY
102 GOVERNMENTAL ENTITIES FOR VEHICLE FLEETS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills/summaries>.)

Current law allows a state agency or political subdivision to enter into a vehicle fleet operational and fuel cost-savings contract if the amount of actual savings for each year during the contract period exceeds the amount of annual contract payments, including maintenance costs.

The bill clarifies that moneys included in annual contract payments for a cost-savings contract do not include moneys that would otherwise

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

be allocated for vehicle purchases and vehicle operation and maintenance costs for the applicable fiscal year. The bill also clarifies that the expected total contract payments required under the cost-savings contract are expected to be equal to or less than total vehicle acquisition costs and operations, maintenance, and fuel costs over the lifetime of the contract, rather than in each year of the contract, if the agency did not implement the cost-saving measures.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-30-2001, **amend**
3 (1.5) (b) and (9) as follows:

4 **24-30-2001. Definitions.** As used in this part 20, unless the
5 context otherwise requires:

6 (1.5) "Energy performance contract" means a contract for
7 evaluations, recommendations, or implementation of one or more energy
8 cost-savings measures designed to produce utility cost savings, operation
9 and maintenance cost savings, or vehicle fleet operational and fuel cost
10 savings, which contract:

11 (b) Provides that the amount of actual savings for each year during
12 the contract period shall exceed annual contract payments, including
13 maintenance costs, to be made during such year by the state agency
14 contracting for the energy cost-savings measures; except that, for the
15 purposes of this part 20 only, the term "annual contract payments" does
16 not include:

17 (I) Moneys received by the state from rebates, gifts, grants, or
18 donations specifically designated by the gifting, granting, or donating
19 party for the design or implementation of an energy cost-savings measure;
20 **or**

21 (II) State moneys that have been specifically appropriated in a
22 distinct line item, or, in the case of the department of transportation,

1 otherwise set aside in the department's budget, for the design or
2 implementation of an energy cost-savings measure that is wholly
3 addressed within the scope of the energy cost-savings contract; OR

4 (III) IN THE CASE OF VEHICLE FLEET OPERATIONAL AND FUEL
5 COST-SAVINGS MEASURES, STATE MONEYS THAT WOULD OTHERWISE BE
6 ALLOCATED TO VEHICLE PURCHASES FOR THE APPLICABLE FISCAL YEAR.

7 (9) "Vehicle fleet operational and fuel cost-savings contract"
8 means an energy performance contract or shared-savings contract or any
9 other agreement in which vehicle fleet operational and fuel cost savings
10 are used to pay for ~~the cost~~ A PORTION OF THE COSTS of the vehicle or
11 associated capital investments.

12 **SECTION 2.** In Colorado Revised Statutes, 24-30-2003, **amend**
13 (1) (a) (II) and (5) as follows:

14 **24-30-2003. Energy cost-savings contracts.** (1) A state agency
15 may enter into an energy cost-savings contract with any person or entity
16 experienced in the design and implementation of utility cost-savings
17 measures for buildings or other facilities, with any person or entity
18 experienced in the calculation and analysis of vehicle fleet operational
19 and fuel cost savings, or with the entity or person who performed the
20 energy analysis and recommendations pursuant to section 24-30-2002 if:

21 (a) (II) In the case of a vehicle fleet operational and fuel
22 cost-savings contract, the energy analysis and recommendations made
23 pursuant to section 24-30-2002 indicate that the expected ~~annual~~ TOTAL
24 contract payments required under the vehicle fleet operational and fuel
25 cost-savings contract OVER THE LIFETIME OF THE CONTRACT for one or
26 more vehicle fleet operational and fuel cost-savings measures are
27 expected to be equal to or less than the sum of the ~~vehicle fleet cost~~

1 ~~savings achieved by the implementation of such measures on an annual~~
2 ~~basis~~ VEHICLE ACQUISITION COSTS AND OPERATIONS, MAINTENANCE, AND
3 FUEL COSTS IF THE AGENCY DID NOT IMPLEMENT THE COST-SAVINGS
4 MEASURES; and

5 (5) Payments by a state agency required under an energy
6 cost-savings contract may be made from moneys appropriated to the state
7 agency for operating expenses or utilities appropriations available to the
8 state agency at the time the contract payments are due. IN THE CASE OF
9 VEHICLE FLEET OPERATIONAL AND FUEL COST-SAVINGS MEASURES,
10 CONTRACT PAYMENTS BY A STATE AGENCY MAY BE MADE FROM MONEYS
11 APPROPRIATED TO THE STATE AGENCY FOR THE ACQUISITION OF VEHICLES
12 AND FOR THE OPERATION, MAINTENANCE, AND FUEL COSTS OF THOSE
13 VEHICLES.

14 **SECTION 3.** In Colorado Revised Statutes, 29-12.5-101, **amend**
15 (3) (b), (3) (e), and (11); and **add** (3) (b.5) as follows:

16 **29-12.5-101. Definitions.** As used in this article:

17 (3) "Energy performance contract" means a contract for
18 evaluations, recommendations, or implementation of one or more energy
19 saving measures designed to produce utility costs savings, operation and
20 maintenance cost savings, or vehicle fleet operational and fuel cost
21 savings, which contract:

22 (b) Provides that the amount of actual savings for each year during
23 the contract period shall exceed annual contract payments, including
24 maintenance costs, to be made during such year by the board contracting
25 for ~~energy~~ UTILITY cost-savings measures;

26 (b.5) PROVIDES THAT, IN THE CASE OF A VEHICLE FLEET
27 OPERATIONAL AND FUEL COST-SAVINGS CONTRACT, THE TOTAL CONTRACT

1 PAYMENTS REQUIRED UNDER THE VEHICLE FLEET OPERATIONAL AND FUEL
2 COST-SAVINGS CONTRACT OVER THE LIFETIME OF THE CONTRACT FOR ONE
3 OR MORE VEHICLE FLEET OPERATIONAL AND FUEL COST-SAVINGS
4 CONTRACT MEASURES ARE EXPECTED TO BE EQUAL TO OR LESS THAN THE
5 SUM OF THE VEHICLE ACQUISITION COSTS AND OPERATION, MAINTENANCE,
6 AND FUEL COSTS IF THE AGENCY DID NOT IMPLEMENT THE COST-SAVINGS
7 MEASURES.

8 (e) Provides that, if all payments, except payments for
9 maintenance and repairs and obligations on the termination of the contract
10 prior to expiration, made by such board during any year subject to the
11 guarantee in paragraph (c) of this subsection (3) exceed the sum of ~~energy~~
12 UTILITY cost savings and operation and maintenance savings for that year,
13 such party shall forfeit to such board that portion of such moneys equal
14 to the amount by which such payments exceeded such savings;

15 (11) "Vehicle fleet operational and fuel cost-savings contract"
16 means an energy performance contract or shared-savings contract or any
17 other agreement in which vehicle fleet operational and fuel cost savings
18 are used to pay for ~~the cost~~ A PORTION OF THE COSTS of the vehicle or
19 associated capital investments.

20 **SECTION 4.** In Colorado Revised Statutes, 29-12.5-103, **amend**
21 (1) introductory portion as follows:

22 **29-12.5-103. Financing energy cost-savings measures -**
23 **exception to debt limitations.** (1) If the board, after receiving the
24 analysis and recommendations pursuant to section 29-12.5-102, finds that
25 the amount of money the political subdivision would spend on such
26 energy saving measures is not likely to exceed the amount of money it
27 would save in energy costs over the term of the contract, OR, IN THE CASE

1 OF VEHICLE FLEET OPERATIONAL AND FUEL COST-SAVINGS MEASURES,
2 THAT THE AMOUNT OF MONEY THAT THE POLITICAL SUBDIVISION WOULD
3 SPEND ON SUCH ENERGY SAVINGS IS NOT LIKELY TO EXCEED THE SUM OF
4 VEHICLE ACQUISITION COSTS AND OPERATION, MAINTENANCE, AND FUEL
5 COSTS IF THE POLITICAL SUBDIVISION DID NOT IMPLEMENT THESE
6 MEASURES, the board may:

7 **SECTION 5. Act subject to petition - effective date -**
8 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
9 the expiration of the ninety-day period after final adjournment of the
10 general assembly (August 5, 2015, if adjournment sine die is on May 6,
11 2015); except that, if a referendum petition is filed pursuant to section 1
12 (3) of article V of the state constitution against this act or an item, section,
13 or part of this act within such period, then the act, item, section, or part
14 will not take effect unless approved by the people at the general election
15 to be held in November 2016 and, in such case, will take effect on the
16 date of the official declaration of the vote thereon by the governor.

17 (2) This act applies to vehicle fleet operational and fuel
18 cost-savings contracts entered into by a state agency or political
19 subdivision on or after the applicable effective date of this act.