

## 2019 Kansas Statutes

### **75-37,125. Energy conservation measure, financing; prior approval of plans and projects; definitions.** (a) As used in this act:

(1) "Federal entity" means the government of the United States of America or any bureau, department, instrumentality or other agency of the federal government.

(2) "Political subdivision" shall have the meaning ascribed thereto in subsection (o) of K.S.A. 74-8902, and amendments thereto.

(3) "State agency" means any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of this state.

(4) "Energy conservation measure" means an energy study, audit, improvement or equipment which is designed to provide energy and operational cost savings at least equivalent to the amount expended by a participating political subdivision or state agency for such energy study, audit, improvement or equipment over a period of not more than 30 years after the date such improvement or equipment is installed or becomes operational, as the case may be.

(b) Subject to the provisions of subsection (c), a political subdivision or state agency, which include the board of regents and a regent's institution and a community or technical college, may enter into a contract or lease-purchase agreement for an energy conservation measure which meets the criteria of this section. In addition to any other authority provided by law a political subdivision or state agency may solicit proposals to contract for an energy conservation measure by advertising for proposals and qualifications in a newspaper of general circulation or the Kansas register, and by sending requests for proposals to at least three vendors and negotiating a lease-purchase agreement with one or more vendors submitting a proposal thereto. Negotiations entered into pursuant to this section with individual vendors shall not be subject to the provisions of the open meetings act. After an agreement has been executed, the agreement and all proposals from vendors shall be open records available for public inspection in accordance with the open records act. A state agency may utilize the procedures prescribed in K.S.A. 75-37,102, and amendments thereto, by the procurement negotiating committee to negotiate and contract for energy conservation measures. Each state agency shall provide copies of plans of the proposed energy conservation measure to the state corporation commission for review. No state agency may enter into a contract for an energy conservation measure unless such measure has been approved by the state corporation commission. Plans submitted under this section shall be retained and maintained by the state corporation commission.

(c) Before executing any contract or finance, pledge, loan or lease-purchase agreement under this section, the energy conservation contractor shall provide the political subdivision or state agency with plans for the proposed energy conservation measures prepared by an engineer licensed to practice in Kansas. The energy conservation contractor shall also provide a report of the calculations showing the estimated energy and operational cost savings that would result from the proposed energy conservation measures. Notwithstanding any provision contained in K.S.A. 71-201 and 72-1149, and amendments thereto, or other provisions of law, the board of education of any school district and the board of any community college or technical

college may enter into a contract or finance, pledge, loan or lease-purchase agreement for an energy conservation measure for a period exceeding 10 years. Political subdivisions and state agencies may include a provision in the contract with an entity providing the energy conservation measure requiring such entity to guarantee that the actual amount of savings of energy and operational costs attributable to the energy conservation measure be not less than the cost of the energy conservation measure over the time specified including financing costs.

(d) Within the limits of appropriations available therefor, the state corporation commission is authorized to provide grants for engineering studies and energy conservation measures for political subdivisions and state agencies.

(e) The state corporation commission, or its designee, may provide administrative support and resources available under the facility conservation improvement program under this section or K.S.A. 75-37,111 et seq., and amendments thereto, as requested by school districts, private and public colleges in Kansas, political subdivisions, state agencies or federal entities for purposes of this section. The state corporation commission, or its designee, may fix, charge and collect reasonable fees for any administrative support and resources or other services provided by the state corporation commission, or its designee, under this subsection.

(f) The provisions of the cash basis law and K.S.A. 79-2925, and amendments thereto, shall not apply to any contract or lease-purchase agreement entered into pursuant to this section.

**History:** L. 2000, ch. 88, § 1; L. 2006, ch. 88, § 1; L. 2007, ch. 116, § 3; July 1.