

AMENDED IN SENATE MAY 3, 2011  
AMENDED IN SENATE APRIL 12, 2011

**SENATE BILL**

**No. 467**

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**Introduced by Senator Pavley**

February 17, 2011

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An act to add Section 15814.37 to the Government Code, relating to state buildings.

LEGISLATIVE COUNSEL'S DIGEST

SB 467, as amended, Pavley. Department of General Services: contracts for energy efficiency products or services.

The State Building Construction Act of 1955 requires that all new public buildings be equipped with all energy efficiency measures, materials, and devices that are feasible and cost-effective, as defined, over the life of the building or the life of the energy efficiency measure, whichever is less, and sets forth the duties of the Department of General Services in this regard.

This bill would additionally require the department to deem a contract for an energy efficiency product or service to be a no-cost or net-neutral cost contract when specified conditions are met. It would require the department to issue a *nonmandatory* master services agreement permitting owners, operators, and tenants of state facilities to procure a wide range of energy efficiency products or services according to specified criteria.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. The Legislature finds and declares as follows:

2 (a) The state urgently needs to save state funds and in so doing  
3 needs to take cost-effective steps to improve energy efficiency.

4 (b) These goals should not be impeded simply because there is  
5 no particular contracting method specifically permitting the state  
6 to purchase energy saving products or services where the state  
7 does not have to pay out-of-pocket for those technologies or  
8 services but nevertheless enjoys the monetary savings from those  
9 purchases.

10 SEC. 2. Section 15814.37 is added to the Government Code,  
11 to read:

12 15814.37. (a) The Department of General Services shall deem  
13 a contract for an energy efficiency product or service to be a  
14 no-cost or net-neutral cost contract where funding for the contract  
15 is provided through either of the following methods:

16 (1) The state is required, for the life of the contract, to pay the  
17 vendor in monthly or other scheduled increments where those  
18 payments are less than the difference between the amount the state  
19 was paying for energy, including the cost of maintaining the  
20 electrical and mechanical energy systems providing that facility's  
21 energy, for a facility or facilities prior to entering into the contract  
22 and what the state is paying for the same energy after entering into  
23 the contract.

24 (2) The contract requires the vendor to pay the state a single  
25 sum at the execution of the contract to provide its technology or  
26 services, at a calculated net present value figure, in exchange for  
27 the state paying the vendor monthly or other scheduled increments  
28 in amounts equal to the difference between what the state was  
29 paying for energy for a facility ~~prior or facilities~~ or facilities prior  
30 to execution of the contract and for the same energy after execution  
31 of the contract, for the life of the contract.

32 (b) No later than July 31, 2012, the department shall issue a  
33 *nonmandatory* master services agreement permitting owners,  
34 operators, and tenants of state facilities to procure a wide range of  
35 energy efficiency products or services from ~~the~~ *a wide range of*  
36 approved companies included in the agreement. The companies  
37 included in the agreement shall have a record of providing those  
38 products or services to governmental entities or private sector

1 companies for at least two years prior to January 1, 2012. The  
2 department shall begin to work with relevant university centers  
3 no later than January 1, 2012, for guidance in the development of  
4 product and service specifications for the agreement.

5 (c) Notwithstanding subdivision (b), the agreement shall include,  
6 among other things, a provision to permit pilot or demonstration  
7 contracts for energy efficiency products or services. An energy  
8 efficiency product or service shall not be excluded from this portion  
9 of the agreement because the companies included have been in  
10 business for less than two years, or it is an emerging technology  
11 or service that has been demonstrated to be effective in prototypical  
12 or limited production, that could become commercially viable and  
13 successful with appropriate market development efforts. The  
14 department shall begin to work with relevant university centers  
15 no later than January 1, 2012, for guidance in the development of  
16 product and service specifications for the pilot or demonstration  
17 portion of the agreement.

18 (d) For purposes of this section, an ~~energy “efficiency~~ “*energy*  
19 *efficiency* product or service” means a technology or technology  
20 service where the energy cost savings to the state are projected to  
21 exceed the compensation the state pays for the technology or  
22 service within 12 months of the initial deployment of the product  
23 or service.

24 (e) For purposes of this section, the difference between the  
25 amount the state would have paid for energy and the cost of  
26 maintaining energy consuming devices prior to entering into the  
27 contract and what it is paying for the same energy and maintenance  
28 of energy consuming devices after entering into the contract shall  
29 be based upon either of the following:

30 (1) The amount the state paid to ~~a~~ utility and maintenance  
31 service contractors for a kind of energy at a particular facility in  
32 the 36 months prior to entering the contract, divided by month or  
33 another increment of time.

34 (2) Another amount calculated by an outside third party selected  
35 by the state and agreed to by the vendor in the contract.

36 (f) Nothing in this section shall be construed to do any of the  
37 following:

38 (1) Limit the department’s ability to determine a vendor is in  
39 breach of contract.

- 1 (2) Prevent the state from requiring other terms and conditions,  
2 provided that those terms and conditions are not duplicative of, or  
3 in conflict with, and do not frustrate the intent of, this section.
- 4 (3) Prevent the department from reasonably apportioning  
5 administrative or consulting costs required to implement the  
6 contracting methods set forth in this section over as many contracts  
7 as required to ensure both that the state does not lose the  
8 opportunity to achieve energy savings and the department is able  
9 to be fully reimbursed for those reasonable costs exclusively from  
10 savings.
- 11 (4) Require the creation of a General Fund obligation in  
12 contravention of Section 1 of Article XVI of the California  
13 Constitution.