

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE MAY 3, 2011

AMENDED IN SENATE APRIL 12, 2011

SENATE BILL

No. 467

Introduced by Senator Pavley

February 17, 2011

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:

SECTION 1. The Legislature finds and declares as follows:

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

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

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

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

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

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

(b) No later than ~~July 31, 2012~~ *January 1, 2013*, the department shall 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 from a wide range of approved companies included in the agreement. The companies included in the agreement shall have a record of providing those 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 product
19 or service” means a technology or technology service where the
20 energy cost savings to the state are projected to exceed the
21 compensation the state pays for the technology or service within
22 12 36 months of the initial deployment of the product or service.

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

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

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

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

37 (1) Limit the department’s ability to determine a vendor is in
38 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.