

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

**HOUSE BILL 623
RATIFIED BILL**

AN ACT TO PROMOTE ENERGY EFFICIENCY IN STATE-OWNED BUILDINGS.

The General Assembly of North Carolina enacts:

SECTION 1. The title of Part 2 of Article 3B of Chapter 143 of the General Statutes reads as rewritten:

"Part 2. Guaranteed Energy Savings Contracts for ~~Local~~ Governmental Units."

SECTION 2. G.S. 143-64.17 reads as rewritten:

"§ 143-64.17. Definitions.

As used in this Part:

- (1) "Energy conservation measure" means a facility alteration, training, or services related to the operation of the facility, when the alteration, training, or services provide anticipated energy savings. Energy conservation measure includes any of the following:
 - a. Insulation of the building structure and systems within the building.
 - b. Storm windows or doors, caulking, weatherstripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed or coated window or door systems, additional glazing, reductions in glass area, or other window or door system modifications that reduce energy consumption.
 - c. Automatic energy control systems.
 - d. Heating, ventilating, or air-conditioning system modifications or replacements.
 - e. Replacement or modification of lighting fixtures to increase the energy efficiency of a lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable State or local building code or is required by the light system after the proposed modifications are made.
 - f. Energy recovery systems.
 - g. Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings.
 - h. Other energy conservation measures.
- (2) "Energy savings" means a measured reduction in fuel costs, energy costs, or operating costs created from the implementation of one or more energy conservation measures when compared with an established baseline of previous fuel costs, energy costs, or operating costs developed by the ~~local~~ governmental unit.
- (2a) "Governmental unit" means either a local governmental unit or a State governmental unit.
- (3) "Guaranteed energy savings contract" means a contract for the evaluation, recommendation, or implementation of energy conservation measures, including the design and installation of equipment or the repair or replacement of existing equipment, in which

all payments, except obligations on termination of the contract before its expiration, are to be made over time, and in which energy savings are guaranteed to exceed costs.

- (4) "Local governmental unit" means any board or governing body of a political subdivision of the State, including any board of a community college, any school board, or an agency, commission, or authority of a political subdivision of the State.
- (5) "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy conservation measures.
- (6) "Request for proposals" means a negotiated procurement initiated by a ~~local~~ governmental unit by way of a published notice that includes the following:
 - a. The name and address of the ~~local~~ governmental unit.
 - b. The name, address, title, and telephone number of a contact person in the ~~local~~ governmental unit.
 - c. Notice indicating that the ~~local~~ governmental unit is requesting qualified providers to propose energy conservation measures through a guaranteed energy savings contract.
 - d. The date, time, and place where proposals must be received.
 - e. The evaluation criteria for assessing the proposals.
 - f. A statement reserving the right of the ~~local~~ governmental unit to reject any or all the proposals.
 - g. Any other stipulations and clarifications the ~~local~~ governmental unit may require.
- (7) "State governmental unit" means the State or a department, an agency, a board, or a commission of the State, including the Board of Governors of The University of North Carolina and its constituent institutions."

SECTION 3. G.S. 143-64.17A reads as rewritten:

"§ 143-64.17A. Solicitation of guaranteed energy savings contracts.

(a) Before entering into a guaranteed energy savings contract, a ~~local~~ governmental unit shall issue a request for proposals. Notice of the request shall be published at least 15 days in advance of the time specified for opening of the proposals in at least one newspaper of general circulation in the geographic area for which the local governmental unit is ~~responsible~~ responsible or, in the case of a State governmental unit, in which the facility or facilities are located. No guaranteed energy savings contract shall be awarded by any ~~governing body~~ governmental unit unless at least two proposals have been received from qualified providers. Provided that if after the publication of the notice of the request for proposals, fewer than two proposals have been received from qualified providers, the ~~governing body of the local~~ governmental unit shall again publish notice of the request and if as a result of the second notice, one or more proposals by qualified providers are received, the ~~governing body~~ governmental unit may then open the proposals and select a qualified provider even if only one proposal is received.

(b) The ~~local~~ governmental unit shall evaluate a sealed proposal from any qualified provider. Proposals shall contain estimates of all costs of installation, modification, or remodeling, including costs of design, engineering, installation, maintenance, repairs, ~~and~~ debt service, and estimates of energy savings.

(c) ~~Proposals~~ In the case of a local governmental unit, proposals received pursuant to this section shall be opened by a member or an employee of the governing body of the local governmental unit at a public opening at which the contents of the proposals shall be announced and recorded in the minutes of the governing body. Proposals shall be evaluated for the local governmental unit by a licensed architect or engineer on the basis of:

- (1) The information required in subsection (b) of this section; and
- (2) The criteria stated in the request for proposals.

The local governmental unit may require a qualified provider to include in calculating the cost of a proposal for a guaranteed energy savings contract any reasonable fee payable by the local governmental unit for evaluation of the proposal by a licensed architect or professional engineer not employed as a member of the staff of the local governmental unit or the qualified provider.

(c1) In the case of a State governmental unit, proposals received pursuant to this section shall be opened by a member or an employee of the State governmental unit at a public opening and the contents of the proposals shall be announced at this opening. Proposals shall be evaluated for the State governmental unit by a licensed architect or engineer who is either privately retained, employed with the Department of Administration, or employed as a member of the staff of the State governmental unit. The proposal shall be evaluated on the basis of the information required in subsection (b) of this section and the criteria stated in the request for proposals.

The State governmental unit shall require a qualified provider to include in calculating the cost of a proposal for a guaranteed energy savings contract any reasonable fee payable by the State governmental unit for evaluation of the proposal by a licensed architect or professional engineer not employed as a member of the staff of the State governmental unit or the qualified provider. The Department of Administration may charge the State governmental unit a reasonable fee for the evaluation of the proposal if the Department's services are used for the evaluation and the cost paid by the State governmental unit to the Department of Administration shall be calculated in the cost of the proposal under this subsection.

(d) The ~~local~~-governmental unit shall select the qualified provider that it determines to best meet the needs of the ~~local~~ governmental unit by evaluating all of the following:

- (1) ~~Prices offered;~~offered.
- (2) ~~Proposed costs of construction, financing, maintenance, and training;~~training.
- (3) ~~Quality of the products proposed;~~proposed.
- (4) ~~Amount of energy savings;~~savings.
- (5) ~~General reputation and performance capabilities of the qualified providers;~~providers.
- (6) ~~Substantial conformity with the specifications and other conditions set forth in the request for proposals;~~proposals.
- (7) ~~Time specified in the proposals for the performance of the contract;~~and contract.
- (8) Any other factors the ~~local~~ governmental unit deems necessary, which factors shall be made a matter of record.

(e) Nothing in this section shall limit the authority of ~~local~~-governmental units as set forth in Article 3D of this Chapter."

SECTION 4. G.S. 143-64.17B reads as rewritten:

"§ 143-64.17B. Guaranteed energy savings contracts.

(a) A ~~local~~-governmental unit may enter into a guaranteed energy savings contract with a qualified provider if all of the following apply:

- (1) The term of the contract does not exceed 12 years from the date of the installation and acceptance by the ~~local~~ governmental unit of the energy conservation measures provided for under the contract.
- (2) The ~~local~~-governmental unit finds that the energy savings resulting from the performance of the contract will equal or exceed the total cost of the contract.
- (3) The energy conservation measures to be installed under the contract are for an existing building.

(b) Before entering into a guaranteed energy savings contract, the ~~local~~ governmental unit shall provide published notice of the time and place or of the meeting at which it proposes to award the contract, the names of the parties to the proposed contract, and the contract's purpose. The notice must be published at least 15 days before the date of the proposed award or meeting.

(c) A qualified provider entering into a guaranteed energy savings contract under this Part shall provide a bond to the ~~local~~-governmental unit in the amount equal to one hundred percent (100%) of the total cost of the guaranteed energy savings contract to assure the provider's faithful performance. Any bonds required by this subsection shall be subject to the provisions of Article 3 of Chapter 44A of the General Statutes. If the savings resulting from a guaranteed energy savings contract are not as great as projected under the contract and all required shortfall payments to the ~~local~~-governmental unit have not been made, the ~~local~~-governmental unit may terminate the contract without incurring any additional obligation to the qualified provider.

(d) As used in this section, "total cost" shall include, but not be limited to, costs of construction, costs of financing, and costs of maintenance and training during the term of the contract. "Total cost" does not include any obligations on termination of the contract before its expiration, provided that those obligations are disclosed when the contract is executed.

(e) A guaranteed energy savings contract may not require the ~~local~~ governmental unit to purchase a maintenance contract or other maintenance agreement from the qualified provider who installs energy conservation measures under the contract if the ~~local~~-unit of government takes appropriate action to budget for its own forces or another provider to maintain new systems installed and existing systems affected by the guaranteed energy savings contract."

SECTION 5. G.S. 143-64.17C is repealed.

SECTION 6. G.S. 143-64.17D reads as rewritten:

"§ 143-64.17D. Contract continuance.

A guaranteed energy savings contract may extend beyond the fiscal year in which it becomes effective. Such a contract shall stipulate that it does not constitute a ~~debt, liability, or obligation of any local governmental unit or a direct or indirect pledge of the taxing power or full faith and credit of any unit of local government.~~ governmental unit."

SECTION 7. Part 2 of Article 3B of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-64.17F. State agencies to use contracts when feasible.

State governmental units shall evaluate the use of guaranteed energy savings contracts in reducing energy costs and may use those contracts when feasible and practical. The Department of Administration, through the State Energy Office, shall adopt rules for agency evaluation of guaranteed energy savings contracts. Prior to adopting any rules pursuant to this section, the Department shall consult with and obtain approval of those rules from the State Treasurer."

SECTION 8. Part 2 of Article 3B of Chapter 143 of the General Statutes is amended by adding the following new sections to read:

"§ 143-64.17H. Guaranteed energy savings contract reporting requirements.

A State governmental unit that enters into a guaranteed energy savings contract must report the contract and the terms of the contract to the State Energy Office of the Department of Administration within 30 days of the date the contract is entered into. In addition, within 60 days after each annual anniversary date of a guaranteed energy savings contract, the State governmental unit must report the status of the contract to the State Energy Office, including any details required by the State Energy Office. The State Energy Office shall compile the information for each fiscal year and report it to the Joint Legislative Commission on Governmental Operations and to the Local Government Commission annually by December 1. In compiling the information, the State Energy Office shall include information on the energy savings expected to be

realized from a contract and shall evaluate whether expected savings have in fact been realized.

"§ 143-64.17I. Installment and lease purchase contracts.

A local governmental unit may provide for the acquisition, installation, or maintenance of energy conservation measures acquired pursuant to this Part by installment or lease purchase contracts in accordance with and subject to the provisions of G.S. 160A-20 and G.S. 160A-19, as applicable.

"§ 143-64.17J. Financing by State governmental units.

State governmental units may finance the acquisition, installation, or maintenance of energy conservation measures acquired pursuant to this Part in the manner and to the extent set forth in Article 8 of Chapter 142 of the General Statutes or as otherwise authorized by law.

"§ 143-64.17K. Inspection and compliance certification for State governmental units.

The provisions of G.S. 143-341(3) shall not apply to any energy conservation measure for State governmental units provided pursuant to this Part, except as specifically set forth in this section. Except as otherwise exempt under G.S. 116-31.11, the following shall apply to all energy conservation measures provided to State governmental units pursuant to this Part:

- (1) The provisions of G.S. 133-1.1.
- (2) Inspection and certification by:
 - a. The applicable local building inspector under Part 4 of Article 18 of Chapter 153A of the General Statutes or Part 5 of Article 19 of Chapter 160A of the General Statutes; or
 - b. At the election of the State governmental unit, the Department of Administration under G.S. 143-341(3)d.

The cost of compliance with this section may be included in the cost of the project in accordance with G.S. 143-64.17A(c1) and may be included in the cost financed under Article 8 of Chapter 142 of the General Statutes."

SECTION 9. Chapter 142 of the General Statutes is amended by adding a new Article to read:

"Article 8.

"State Energy Conservation Finance Act.

"§ 142-60. Short title.

This Article is the State Energy Conservation Finance Act.

"§ 142-61. Definitions.

The following definitions apply in this Article:

- (1) Certificates of participation. – Certificates or other instruments delivered by a special corporation as provided in this Article evidencing the assignment of proportionate and undivided interests in the rights to receive payments to be made by the State pursuant to one or more financing contracts.
- (2) Cost. – The term includes:
 - a. The cost of construction, modification, rehabilitation, renovation, improvement, acquisition, or installation in connection with an energy conservation measure.
 - b. The cost of engineering, architectural, and other consulting services as may be required, including the cost of performing the technical analysis in accordance with G.S. 143-64.17A and inspection and certification in accordance with G.S. 143-64.17K.
 - c. Finance charges, reserves for debt service and other types of reserves required pursuant to a financing contract or any other related documentation, and interest prior to and during construction, and, if deemed advisable by the State Treasurer,

- for a period not exceeding two years after the estimated date of completion of construction.
- d. Administrative expenses and charges.
 - e. The cost of bond insurance, investment contracts, credit and liquidity facilities, interest rate swap agreements and other derivative products, financial and legal consultants, and related costs of the incurrence or issuance of the financing contract to the extent and as determined by the State Treasurer.
 - f. The cost of reimbursing the State for payments made for any costs described in this subdivision.
 - g. Any other costs and expenses necessary or incidental to implementing the purposes of this Article.
- (3) Credit facility. – An agreement that:
- a. Is entered into by the State with a bank, savings and loan association, or other banking institution, an insurance company, reinsurance company, surety company or other insurance institution, a corporation, investment banking firm or other investment institution, or any financial institution or other similar provider of a credit facility, which provider may be located within or without the United States of America; and
 - b. Provides for prompt payment of all or any part of the principal or purchase price (whether at maturity, presentment or tender for purchase, redemption, or acceleration), redemption premium, if any, and interest with respect to any financing contract payable on demand or tender by the owner in consideration of the State agreeing to repay the provider of the credit facility in accordance with the terms and provisions of the agreement.
- (4) Energy conservation measure. – Defined in G.S. 143-64.17.
- (5) Energy conservation property. – Buildings, equipment, or other property with respect to which an energy conservation measure is undertaken.
- (6) Financing contract. – An installment financing contract entered into pursuant to the provisions of this Article to finance the cost of an energy conservation measure.
- (7) Person. – An individual, a firm, a partnership, an association, a corporation, a limited liability company, or any other organization or group acting as a unit.
- (8) Special corporation. – A nonprofit corporation created under Chapter 55A of the General Statutes for the purpose of facilitating the incurrence of certificates of participation indebtedness by the State under this Article.
- (9) State governmental unit. – Defined in G.S. 143-64.17.
- (10) State Treasurer. – The incumbent Treasurer, from time to time, of the State.

"§ 142-63. Authorization of financing contract.

Subject to the terms and conditions set forth in this Article, a State governmental unit that has solicited a guaranteed energy conservation measure pursuant to G.S. 143-64.17A or G.S. 143-64.17B or the State Treasurer, as designated by the Council of State, is authorized to execute and deliver, for and on behalf of the State of North Carolina, a financing contract to finance the costs of the energy conservation measure. The aggregate principal amount payable by the State under financing contracts entered pursuant to this Article shall not exceed fifty million dollars (\$50,000,000) at any one time.

"§ 142-64. Procedure for incurrence or issuance of financing contract.

(a) When a State governmental unit has solicited a guaranteed energy conservation measure, the State governmental unit shall request that the State Treasurer approve the State governmental unit's entering into a financing contract to finance the cost of the energy conservation measure. In connection with the request, the State governmental unit shall provide to the State Treasurer any information the State Treasurer requests in order to evaluate the request. In the event that the State Treasurer determines that financing efficiencies will be realized through the combining of financing contracts, then the State Treasurer is authorized to execute and deliver, for and on behalf of the State of North Carolina, subject to the terms and conditions set forth in this Article, a financing contract for the purpose of financing the cost of the multiple energy conservation measures.

(b) A financing contract may be entered into pursuant to this Article only after all of the following conditions are met:

- (1) The Office of State Budget and Management has certified that resources are expected to be available to the State to pay the payments to fall due under the financing contract as they become due and payable.
- (2) The Council of State has approved the execution and delivery of the financing contract by resolution that sets forth all of the following:
 - a. The not-to-exceed term or final maturity of the financing contract, which shall be no later than 12 years from the date the financing contract is entered.
 - b. The not-to-exceed interest rate or rates (or the equivalent thereof), which may be fixed or vary over a period of time, with respect to the financing contract.
 - c. The appropriate officers of the State to execute and deliver the financing contract and all other documentation relating to it.
- (3) The State Treasurer has approved the financing contract and all other documentation related to it, including any deed of trust, security agreement, trust agreement or any credit facility.

The resolution of the Council of State shall include any other matters the Council of State considers appropriate.

(c) In determining whether to approve a financing contract under subdivision (b)(3) of this section, the State Treasurer may consider the factors the State Treasurer considers relevant in order to find and determine all of the following:

- (1) The principal amount to be advanced to the State under the financing contract is adequate and not excessive for the purpose of paying the cost of the energy conservation measure.
- (2) The increase, if any, in State revenues necessary to pay the sums to become due under the financing contract are not excessive.
- (3) The financing contract can be entered into on terms desirable to the State.
- (4) In the case of delivery of certificates of participation, the sale of certificates of participation will not have an adverse effect upon any scheduled or proposed sale of obligations of the State or any State agency.

(d) The Office of State Budget and Management is authorized to certify that funds are expected to be available to the State to make the payments due under a financing contract entered into under the provisions of this section as the payments become due and payable. In so certifying, the Office of State Budget and Management may take into account expected decreases in appropriations to the State governmental unit that will offset payments expected to be made under the financing contract.

"§ 142-65. Security; other requirements.

(a) In order to secure the performance by the State of its obligations under a financing contract or any other related documentation, the State may grant a lien on, or

security interest in, all or any part of the energy conservation property or the land upon which the energy conservation property is or will be located.

(b) No deficiency judgment may be rendered against the State or any State governmental unit in any action for breach of any obligation contained in a financing contract or any other related documentation, and the taxing power of the State is not and may not be pledged directly or indirectly to secure any moneys due under a financing contract or any other related documentation. In the event that the General Assembly does not appropriate funds sufficient to make payments required under a financing contract or any other related documentation, the net proceeds received from the sale, lease, or other disposition of the property subject to the lien or security interest created pursuant to subsection (a) of this section shall be applied to satisfy these payment obligations in accordance with the deed of trust, security agreement, or other documentation creating the lien or security interest. These net proceeds are hereby appropriated for the purpose of making these payments. Any net proceeds in excess of the amount required to satisfy the obligations of the State under the financing contract or any other related documentation shall be paid to the State Treasurer for deposit to the General Fund of the State.

(c) Neither a financing contract nor any other related documentation shall contain a nonsubstitution clause that restricts the right of the State to (i) continue to provide a service or conduct an activity or (ii) replace or provide a substitute for any State property that is the subject of an energy conservation measure.

(d) A financing contract may include provisions requesting the Governor to submit in the Governor's budget proposal, or any amendments or supplements to it, appropriations necessary to make the payments required under the financing contract.

(e) A financing contract may contain any provisions for protecting and enforcing the rights and remedies of the person advancing moneys or providing funds under the financing contract that are reasonable and not in violation of law, including covenants setting forth the duties of the State in respect of the purposes to which the funds advanced under a financing contract may be applied, and the duties of the State with respect to the property subject to the lien or security interest created pursuant to subsection (a) of this section, including, without limitation, provisions relating to insuring and maintaining any property and the custody, safeguarding, investment, and application of moneys.

(f) The interest component of the installment payments to be made under a financing contract may be calculated based upon a fixed or variable interest rate or rates as determined by the State Treasurer.

(g) If the State Treasurer determines that it is in the best interest of the State, the State may enter into, or arrange for the delivery of, a credit facility to secure payment of the payments due under a financing contract or to secure payment of the purchase price of any certificates of participation delivered as provided in this Article.

"§ 142-66. Payment provisions.

The payment of amounts payable by the State under a financing contract and any other related documentation during any fiscal biennium or fiscal year shall be limited to funds appropriated for that purpose by the General Assembly in its discretion. No provision of this Article and no financing contract or any other related documentation shall be construed or interpreted as creating a pledge of the faith and credit of the State or any agency, department, or commission of the State within the meaning of any constitutional debt limitation.

"§ 142-67. Certificates of participation.

(a) If the State Treasurer determines that the State would realize debt service savings under one or more financing contracts if certificates of participation are issued with respect to the rights to receive payments under the financing contract, then the State Treasurer is authorized to take actions, with the consent of the Council of State, that will effectuate the delivery of certificates of participation for that purpose.

(b) Terms; Interest. – Certificates of participation may be sold by the State Treasurer in the manner, either at public or private sale, and for any price or prices that the State Treasurer determines to be in the best interest of the State and to effect the purposes of this Article, except that the terms of the sale must also be approved by the special corporation. Interest payable with respect to certificates of participation shall accrue at the rate or rates determined by the State Treasurer with the approval of the special corporation.

(c) Trust Agreement. – Certificates of participation may be delivered pursuant to a trust agreement or similar instrument with a corporate trustee approved by the State Treasurer.

"§ 142-68. Tax exemption.

Any financing contract entered pursuant to this Article, and any certificates of participation relating to it, shall at all times be free from taxation by the State or any political subdivision or any of their agencies, excepting estate, inheritance, and gift taxes; income taxes on the gain from the transfer of the financing contract or certificates of participation; and franchise taxes. The interest component of the installment payments made by the State under the financing contract, including the interest component of any certificates of participation, is not subject to taxation as income.

"§ 142-69. Other agreements.

The State Treasurer may authorize, execute, obtain, or otherwise provide for bond insurance, investment contracts, credit and liquidity facilities, credit enhancement facilities, interest rate swap agreements and other derivative products, and any other related instruments and matters the State Treasurer determines are desirable in connection with entering into financing contracts and issuing certificates of participation pursuant to this Article. The State Treasurer is authorized to employ and designate any financial consultants, underwriters, fiduciaries, and bond attorneys to be associated with any financing contracts or certificates of participation under this Article as the State Treasurer considers appropriate.

"§ 142-70. Investment eligibility.

Financing contracts entered into pursuant to this Article, and any certificates of participation relating to them, are securities or obligations in which all of the following may invest, including capital in their control or belonging to them: public officers, agencies, and public bodies of the State and its political subdivisions; insurance companies, trust companies, investment companies, banks, savings banks, savings and loan associations, credit unions, pension or retirement funds, and other financial institutions engaged in business in the State; and executors, administrators, trustees, and other fiduciaries. Financing contracts entered pursuant to this Article, and any certificates of participation relating to them, are securities or obligations that may properly and legally be deposited with and received by any officer or agency of the State or any political subdivision of the State for any purpose for which the deposit of bonds, notes, or obligations of the State or any political subdivision is now or may later be authorized by law."

SECTION 10. G.S. 160A-20(h) reads as rewritten:

"(h) As used in this section, the term 'unit of local government' means any of the following:

- (1) A county.
- (2) A city.
- (3) A water and sewer authority created under Article 1 of Chapter 162A of the General Statutes.
- (3a) A metropolitan sewerage district created under Article 5 of Chapter 162A of the General Statutes.
- (3b) A sanitary district created under Part 2 of Article 2 of Chapter 130A of the General Statutes.

- (4) An airport authority whose situs is entirely within a county that has (i) a population of over 120,000 according to the most recent federal decennial census and (ii) an area of less than 200 square miles.
- (5) An airport authority in a county in which there are two incorporated municipalities with a population of more than 65,000 according to the most recent federal decennial census.
- (5a) An airport board or commission authorized by agreement between two cities pursuant to G.S. 63-56, one of which is located partially but not wholly in the county in which the jointly owned airport is located, and where the board or commission provided water and wastewater services off the airport premises before January 1, 1995; ~~provided 1995, except~~ that the authority granted by this ~~section-subdivision~~ may be exercised by such a board or commission with respect to water and wastewater systems or improvements only.
- (6) A local school administrative unit whose board of education is authorized to levy a school tax.
- (6a) Any other local school administrative unit, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (6b) A community college, but only for the purpose of financing energy conservation measures acquired pursuant to Part 2 of Article 3B of Chapter 143 of the General Statutes.
- (7) An area mental health, developmental disabilities, and substance abuse authority, acting in accordance with G.S. 122C-147.
- (8) A consolidated city-county, as defined by G.S. 160B-2(1).
- (9) Repealed by Session Laws 2001-414, s. 52, effective September 14, 2001.
- (10) A regional natural gas district, as defined by Article 28 of this Chapter.
- (11) A regional public transportation authority or a regional transportation authority created pursuant to Article 26 or Article 27 of this Chapter.
- (12) A nonprofit corporation or association operating or leasing a public hospital as defined in G.S. 159-39."

SECTION 11. G.S. 143-129.4 reads as rewritten:

"§ 143-129.4. Guaranteed energy savings contracts.

The solicitation and evaluation of proposals for guaranteed energy savings contracts, as defined in Part 2 of Article 3B of this Chapter, and the letting of contracts for these proposals are ~~governed solely~~ not governed by this Article but instead are governed by the provisions of that Part; except that guaranteed energy savings contracts are subject to the requirements of ~~G.S. 143-128.2~~ G.S. 143-128.2 and G.S. 143-135.3."

SECTION 11.1. G.S. 133-4.1 reads as rewritten:

"§ 133-4.1. Guaranteed energy savings contracts.

Except for ~~G.S. 133-1.1~~ G.S. 133-1 and 133-1.1, the provisions of this Article shall not apply to energy conservation measures undertaken as part of a guaranteed energy savings contract entered into pursuant to the provisions of Part 2 of Article 3B of Chapter 143 of the General Statutes."

SECTION 12. Nothing in this act limits the use of any method of contracting authorized by local law or other applicable laws.

SECTION 13. This act becomes effective January 1, 2003, and applies to contracts entered into on or after that date.

In the General Assembly read three times and ratified this the 3rd day of October, 2002.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____ .m. this _____ day of _____, 2002