GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 304 (Second Edition)

SHORT TITLE: Energy Savings Contracts' Cap/Program Admin.

SPONSOR(S): Senator Clodfelter

FISCAL IMPACT

Yes ( ) **No (X)** **No Estimate Available ( )**

	FY 2009-10	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
EXPENDITURES					
Utility Line-Item Energy Savings	(3,950,000)	(7,900,000)	(11,850,000)	(15,800,000)	(19,750,000)
Debt Service	3,950,000	7,900,000	11,850,000	15,800,000	19,750,000
Net Impact	**0**	**0**	**0**	**0**	**0**

POSITIONS (cumulative):

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Agencies and departments throughout State government.

EFFECTIVE DATE: When the bill becomes law.

BILL SUMMARY:
February 24, 2009
S 304. ENERGY SAVINGS CONTRACTS' CAP/PROGRAM ADMIN. Filed 2/24/09. TO REMOVE THE CAP ON THE AMOUNT PAYABLE BY THE STATE FOR GUARANTEED ENERGY SAVINGS CONTRACTS, TO REQUIRE QUALIFIED PROVIDERS TO CONTRIBUTE TO THE COSTS OF ADMINISTERING THE GUARANTEED ENERGY SAVINGS CONTRACTS PROGRAM, TO REQUIRE LIFE-CYCLE COST ANALYSES OF ENERGY CONSERVATION MEASURES DURING INVESTMENT GRADE AUDITS CONDUCTED BY QUALIFIED PROVIDERS, AND TO REQUIRE LOCAL GOVERNMENTAL UNITS THAT ENTER INTO GUARANTEED ENERGY SAVINGS CONTRACTS TO REPORT TO THE STATE ENERGY OFFICE.
Amends GS 142-63, GS 143-64.17B, and GS 143-64.17G as title indicates. Removes the $100 million cap on the total amount payable by the State under guaranteed energy savings financing contracts. Adds the requirement that qualified providers pay 1.5% of the total cost of a guaranteed

energy saving contract to the Department of Administration for use by the State Energy Office. Provides that a qualified provider is not entitled to a refund if the contract is terminated under GS 143-64.17B (c) or (f). Applies to contracts entered into on or after the date the law becomes effective.

May 21, 2009
S 304. ENERGY SAVINGS CONTRACTS' CAP/PROGRAM ADMIN. Filed 2/24/09. Senate committee substitute makes the following changes to 1st edition. Amends GS 142-63 to delete proposed changes that would have removed the $100 million cap on the aggregate principal amount payable by the state under financing contracts. Instead, increases the cap on financing contracts to $500 million on the aggregate outstanding amount of the contracts. Deletes proposed change to GS 143-64.17B(d) which provided that the term total cost did not include the percentage portion of the contract paid to the Department of Administration under new proposed subsection (c1). Also deletes proposed new subsection (c1) of GS 143-64.17B which required a qualified provider to pay 1.5% of the total cost of the guaranteed energy savings contract to the Department of Administration for the State Energy Office. Deletes provision that the act applies to guaranteed energy savings contracts entered into on or after the effective date. Amends the title
Source: Bill Digest S.B. 304 (02/24/0200).

ASSUMPTIONS AND METHODOLOGY:
Guaranteed Energy Savings Contracts (GESCs) are third party financing and construction contracts used by State agencies and local governments to perform energy related repairs, renovations, building upgrades, and new construction. The purpose of each contract is to improve the owner's energy efficiency through building improvements at no net cost to the owner.

The Guaranteed Energy Savings Contract is entered into between a State agency and a qualified energy services company (ESCO). Prior to commencing with the project, an investment grade audit is performed to determine the feasibility of anticipated savings to the proposed project.

If adequate savings are expected and the project commences, then the ESCO must guarantee those savings. In the event that the project does not achieve the anticipated savings, then the ESCO must cover the difference between anticipated savings and actual savings.

To finance the cost of the project, the contract relies on either 3rd party financing through a private financial institution or special indebtedness issued by the State. At present, the State has only used 3rd party financing to finance GESCs.

The cost of the project includes the construction project itself, all consultant services, the ESCO's fee, and all financing costs. Anticipated savings must be sufficient to service the debt in installments over the life the contract. Contracts may be as long as 20 years. State contracts have ranged from 8 years to 18 years, with most contracts lasting 12 years.

Provided that anticipated savings are achieved, the Office of State Budget and Management (OSBM) transfers the amount of the annual debt service payment from the State agency's utility line-item in that agency's budget to the State's debt service reserve. Both the agency's utility line-item and the State's debt service reserve are adjusted accordingly in the subsequent fiscal biennium.

At present, each of the State's guaranteed energy savings contracts have generated sufficient savings to service the debt on each contract.

Savings beyond the contract are limited, since the contract lengths are often set according to the life-cycle of the project itself. For projects the include mostly mechanical system replacements and upgrades, lighting upgrades, and other building systems upgrades, the equipment will likely need replacing at the end of the contract period. For larger construction projects, such as central plant and chiller projects, the useful life could extend past the contract period. It is these larger projects that could provide future opportunities for the State to retain energy savings.

Assumptions – According to information provided by the State Energy Office in the Department of Administration the following assumptions were developed

- The State can pursue about 8 projects per year
- The average contract size is $7.4 million
- The anticipated contract length is 15 years
- ESCOs will honor the contractual guarantees of each contract

8 projects per year x $7.4 million per contract = $59.2 million in contracts per year
$59.2 million in projects annually / 15 year period for each contract = $3.95 million debt service
$3.95 million in debt service = $3.95 million in anticipated energy savings

	FY 2009-10	**FY 2010-11**	**FY 2011-12**	**FY 2012-13**	**FY 2013-14**
Agency utility line-item savings	(3,950,000)	(7,900,000)	(11,850,000)	(15,800,000)	(19,750,000)
Debt Service	3,950,000	7,900,000	11,850,000	15,800,000	19,750,000
Net Impact to the General Fund	0	0	0	0	0

SOURCES OF DATA: State Energy Office, Department of Administration

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Jim Klingler

APPROVED BY: Marilyn Chism, Director
Fiscal Research Division

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