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HOUSE BILL 603

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Al Park

AN ACT

RELATING TO PUBLIC FACILITIES; PROVIDING FOR CUMULATIVE UTILITY AND CONSERVATION-RELATED COST SAVINGS FOR USE IN GUARANTEED UTILITY SAVINGS CONTRACTS PURSUANT TO THE PUBLIC FACILITY ENERGY EFFICIENCY AND WATER CONSERVATION ACT; EXTENDING THE MAXIMUM TERM FOR GUARANTEED UTILITY SAVINGS CONTRACTS PURSUANT TO THE PUBLIC FACILITY ENERGY EFFICIENCY AND WATER CONSERVATION ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-23-3 NMSA 1978 (being Laws 1993, Chapter 231, Section 3, as amended) is amended to read:

"6-23-3. GUARANTEED UTILITY SAVINGS CONTRACTS AUTHORIZED--ENERGY OR WATER SAVINGS GUARANTEE REQUIRED.--

A. A governmental unit may enter into a guaranteed utility savings contract with a qualified provider to reduce

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1 energy, water or conservation-related operating costs if, after  
2 review of the utility efficiency proposal from the qualified  
3 provider, the governmental unit finds that:

4 (1) the amount the governmental unit would  
5 spend on the energy or water conservation measures recommended  
6 in the proposal is not likely to exceed the cumulative amount  
7 of utility [~~cost savings~~] and conservation-related cost savings  
8 of all energy or water conservation measures in the proposal  
9 over [~~ten~~] twenty years or over a period not to exceed the  
10 expected useful life of the most durable measure in the  
11 proposal, whichever period of time is less, from the date of  
12 installation if the recommendations in the proposal were  
13 followed. The normal periodic repair and replacement of  
14 components of an energy or water conservation measure that are  
15 required after the measure is installed or completed shall not  
16 be considered in the amount a governmental unit would spend on  
17 the energy or water conservation measure for purposes of this  
18 paragraph; and

19 (2) the qualified provider can provide a  
20 written guarantee that the utility cost savings and  
21 conservation-related cost savings will meet or exceed the costs  
22 of the conservation measures.

23 B. A guaranteed utility savings contract shall  
24 include:

25 (1) a written guarantee from the qualified

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1 provider that annual utility cost savings and conservation-  
2 related cost savings shall meet or exceed the cost of the  
3 conservation measures; and

4 (2) a requirement that the qualified provider  
5 maintain a direct financial relationship with the governmental  
6 unit, irrespective of the source of financing for the energy or  
7 water conservation measures to be implemented.

8 C. A guaranteed utility savings contract may extend  
9 beyond the fiscal year in which it becomes effective and may  
10 provide for payments over a period of time not to exceed [~~ten~~]  
11 twenty years or the expected useful life of the most durable  
12 energy or water conservation measure in the contract, whichever  
13 period of time is less; provided, however, only utility cost  
14 savings, conservation-related cost savings and special funds  
15 authorized pursuant to the Public Facility Energy Efficiency  
16 and Water Conservation Act or other law shall be pledged for  
17 the payments.

18 D. A governmental unit may enter into an  
19 installment payment contract or lease-purchase agreement for  
20 the purchase and installation of energy or water conservation  
21 measures pursuant to a guaranteed utility savings contract, but  
22 only in accordance with the provisions of the Public Facility  
23 Energy Efficiency and Water Conservation Act.

24 E. A governmental unit may enter into a guaranteed  
25 utility savings contract pursuant to Section 13-1-129 NMSA 1978

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1 in accordance with the provisions of the Public Facility Energy  
2 Efficiency and Water Conservation Act."

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