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# A BILL FOR AN ACT

RELATING TO ENERGY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that state agencies are  
2 interested in using energy savings performance contracting to  
3 improve the energy efficiency of their facilities, thereby  
4 addressing deferred maintenance and achieving a reduction in a  
5 facility's life cycle operating costs. Energy savings  
6 performance contracting is an agreement between an agency and a  
7 company by which the company, without any initial agency funds,  
8 will design, finance, implement, and maintain changes to an  
9 agency facility to increase energy efficiency. The company  
10 guarantees that savings will be achieved due to the changes and  
11 the agency agrees to pay the company a part of the resulting  
12 savings. Thus, wasted energy and operating costs are turned  
13 into capital improvements.

14           Requests for proposals can take eighteen to sixty months to  
15 complete. In contrast, the negotiated partner approach, by  
16 which an agency may negotiate directly with certain vendors to  
17 execute a performance contract exempt from the state procurement  
18 code, can bring about energy savings improvements in twelve to



1 eighteen months. The legislature also finds that a negotiated  
2 partner pilot program is an appropriate means of determining the  
3 ability of the negotiated partner approach to allow agencies to  
4 take full advantage of energy savings performance contracts.

5 The purpose of this Act is to establish a two-year pilot  
6 program using the negotiated partner approach to execute energy  
7 savings performance contracts.

8 SECTION 2. (a) There shall be established within the  
9 department of accounting and general services a pilot program  
10 using the negotiated partner approach to execute energy savings  
11 performance contracts. The pilot program shall allow any state  
12 agency to negotiate directly with a vendor on the list of  
13 qualified vendors for a sole-source energy savings performance  
14 contract for one building or structure under the agency's  
15 jurisdiction, notwithstanding chapter 103D, Hawaii Revised  
16 Statutes.

17 (b) By December 31, 2012, the department shall compile a  
18 list of qualified vendors eligible to participate in the pilot  
19 program under this Act through the issuance of a request for  
20 qualifications.

21 (c) Notwithstanding any law to the contrary relating to  
22 the award of public contracts, an energy savings performance



1 contract under the pilot program shall be awarded in accordance  
2 with the following provisions:

3 (1) The contract shall be signed by June 30, 2013, with  
4 the construction of improvements completed by June 30,  
5 2014;

6 (2) The term of the contract shall not exceed twenty years  
7 from the date of completion of the construction of  
8 improvements;

9 (3) The contract shall provide that the agency receive  
10 title to the energy system being financed under the  
11 contract upon substantial completion of the project,  
12 as agreed to by the agency and lender; and

13 (4) The contract shall provide that total payments to the  
14 vendor shall not exceed total savings achieved and may  
15 provide that annual payments to the vendor shall not  
16 exceed annual savings achieved.

17 SECTION 3. Any agency that participates in the pilot  
18 program established by this Act shall report to the department  
19 of accounting and general services annually from 2013 to 2019 on  
20 the results of the energy savings performance contracts,  
21 including any savings realized by the agency. The report shall



1 include probable reasons for the results. The department shall  
2 establish the deadline for the annual report.

3 SECTION 4. The department of accounting and general  
4 services shall submit to the legislature an annual report on the  
5 results of the energy savings performance contracts formed under  
6 this Act, including information on which agencies are  
7 participating in the pilot program and which facilities are  
8 affected, no later than twenty days prior to the convening of  
9 each regular session from 2014 to 2020.

10 SECTION 5. Nothing in this Act shall prevent or preclude  
11 an agency from soliciting or executing an energy savings  
12 performance contract outside of the pilot program pursuant to  
13 chapter 103D, Hawaii Revised Statutes.

14 SECTION 6. This Act shall take effect on July 1, 2050.



**Report Title:**

Negotiated Partner Approach Pilot Program; Energy Savings Contracts

**Description:**

Establishes the negotiated partner approach pilot program for energy savings contracts, which allows agencies to forego requests for proposals and negotiate directly with qualified vendors. Requires reports to DAGS and the legislature. Effective 07/01/2050. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

