

JAN 20 2012

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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 a  
9 facility to increase energy efficiency. The company guarantees  
10 that savings will be achieved due to their changes and the  
11 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           Despite the advantages of energy savings performance  
15 contracts, requests for proposals can take eighteen to sixty  
16 months to complete, whereas the negotiated partner approach, by  
17 which an agency may negotiate directly with certain vendors to  
18 execute a performance contract, exempt from the state



1 procurement code, can bring about energy savings improvements in  
2 twelve to eighteen months. The legislature also finds that a  
3 negotiated partner pilot program is an appropriate means of  
4 determining the ability of the negotiated partner approach to  
5 allow agencies to take full advantage of energy savings  
6 performance contracts.

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

10 SECTION 2. (a) There shall be established within the  
11 department of accounting and general services a pilot program  
12 using the negotiated partner approach to execute energy savings  
13 performance contracts. The pilot program shall:

14 (1) Allow any state agency to negotiate directly with a  
15 vendor on the list of qualified vendors for a sole-  
16 source energy savings performance contract for one  
17 building or structure under the agency's jurisdiction,  
18 not withstanding chapter 103D, Hawaii Revised  
19 Statutes; and

20 (2) Operate from July 1, 2012, to June 30, 2014.

21 (b) By December 31, 2012, the department shall compile a  
22 list of qualified vendors eligible to participate in the pilot



1 program under this Act through the issuance of a request for  
2 qualifications.

3 (c) Notwithstanding any law to the contrary relating to  
4 the award of public contracts, an energy savings performance  
5 contract under the pilot program shall do so in accordance with  
6 the following provisions:

7 (1) The contract shall be signed by June 30, 2013, with  
8 the construction of improvements completed by June 30,  
9 2014;

10 (2) The term of the contract shall not exceed twenty years  
11 from the date of completion of the construction of  
12 improvements;

13 (3) The contract shall provide that the agency ultimately  
14 shall receive title to the energy system being  
15 financed under the contract; and

16 (4) The contract shall provide that total payments shall  
17 not exceed total savings and may provide that annual  
18 payments shall not exceed annual savings.

19 SECTION 3. Nothing in this Act shall prevent or preclude  
20 an agency from soliciting or executing an energy savings  
21 performance contract outside of the pilot program pursuant to  
22 chapter 103D, Hawaii Revised Statutes.



1 SECTION 4. This Act shall take effect upon its approval.

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# S.B. NO. 2288

**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 the pilot program to be operational from 7/1/12 to 6/30/14.

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