CHAPTER 52

Energy Efficiency

ARTICLE 1

General Provisions

**SECTION 48‑52‑10.** Short title.

 This chapter may be cited as the “South Carolina Energy Efficiency Act”.

HISTORY: 1992 Act No. 449, Part II, Section 1.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

ARTICLE 2

Plan for State Energy Policy

**SECTION 48‑52‑210.** Policy and purpose.

 (A) It is the policy of this State to have a comprehensive state energy plan that maximizes to the extent practical environmental quality and energy conservation and efficiency and minimizes the cost of energy throughout the State. To implement this policy there is adopted the Plan for State Energy Policy.

 (B) The purpose of the plan is to:

 (1) ensure access to energy supplies at the lowest practical environmental and economic cost;

 (2) ensure long‑term access to adequate, reliable energy supplies;

 (3) ensure that demand‑side options are pursued wherever economically and environmentally practical;

 (4) encourage the development and use of clean energy resources, including nuclear energy, energy conservation and efficiency, and indigenous, renewable energy resources;

 (5) ensure that basic energy needs of all citizens, including low income citizens, are met;

 (6) ensure that energy vulnerability to international events is minimized;

 (7) ensure that energy‑related decisions promote the economic and environmental well‑being of the State and maximize the ability of South Carolina to attract retirees, tourists, and industrial and service‑related jobs;

 (8) ensure that short‑term energy decisions do not conflict with long‑range energy needs;

 (9) ensure that internal governmental energy use patterns are consistent with the state’s long‑range interests;

 (10) ensure that state government is organized appropriately to handle energy matters in the best public interest;

 (11) ensure that governmental energy‑related tax, expenditure, and regulatory policies are appropriate, and, wherever possible, maximize the long‑range benefits of competition; and

 (12) ensure that any future energy strategy that promotes carbon‑free, nongreenhouse gas emitting sources includes nuclear energy, renewable resources, and energy conservation and efficiency.

HISTORY: 1992 Act No. 449, Part II, Section 1; 2009 Act No. 19, Section 3, eff May 19, 2009.

Effect of Amendment

The 2009 amendment, in item (4), added “clean energy resources, including nuclear energy, energy conservation and efficiency, and”, and added item (12) relating to future energy strategy.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑220.** “Renewable energy resources” defined.

 For the purposes of this chapter, “renewable energy resources” means energy conservation and efficiency, solar photovoltaic energy, solar thermal energy, wind power, hydroelectric power, geothermal energy, tidal energy, wave energy, recycling, hydrogen fuel derived from renewable resources, biomass energy, energy derived from municipal and other solid waste, energy derived from waste oil, energy derived from waste tires, and landfill gas.

HISTORY: 2009 Act No. 19, Section 1, eff May 19, 2009.

ARTICLE 4

State Energy Office

**SECTION 48‑52‑410.** State Energy Office established; purpose.

 There is established the State Energy Office within the Office of Regulatory Staff which shall serve as the principal energy planning entity for the State. Its primary purpose is to develop and implement a well‑balanced energy strategy and to increase the efficiency of use of all energy sources throughout South Carolina through the implementation of the Plan for State Energy Policy. The State Energy Office must not function as a regulatory body.

HISTORY: 1992 Act No. 449, Part II, Section 1; 2014 Act No. 121 (S.22), Pt VI, Section 11, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 11, substituted “Office of Regulatory Staff” for “State Budget and Control Board”.

CROSS REFERENCES

Transfer of offices, divisions, other agencies from State Budget and Control Board to appropriate entities, see Section 1‑11‑20.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑420.** Duties of State Energy Office.

 In carrying out the purposes of the Plan for State Energy Policy, the State Energy Office shall:

 (1) provide, in cooperation and conjunction with the Governor’s Office, informational and technical assistance programs to assist with residential, commercial, governmental, industrial, and transportation conservation and efficiency and to encourage the use of renewable indigenous energy resources;

 (2) promote, in conjunction with the South Carolina Energy Research and Development Center and the Governor’s Office, continued and expanded energy research and development programs geared toward the energy needs of the State;

 (3) evaluate and certify energy conservation products in cooperation with the South Carolina Energy Research and Development Center;

 (4) in cooperation with the Governor’s Office and other appropriate entities, examine and consider the desirability and feasibility of mechanisms for tax incentives, low‑interest loans, and other financing means for cost‑effective energy consideration and efficiency and use of renewable and indigenous energy resources, and advocate their implementation when deemed appropriate;

 (5) work with the Public Service Commission and other groups to promote appropriate financial incentives for electric and gas utilities to maximize the use of cost‑effective demand‑side options in meeting future energy needs;

 (6) promote the adoption and use of energy efficient building codes and certification procedures for builders, heating and cooling specialists, and building inspectors;

 (7) promote energy efficiency in manufactured housing;

 (8) promote the use of less‑polluting transportation fuels, public transportation and other transportation alternatives, higher mileage and less‑polluting vehicles, and work with state and local entities through policy development, planning, and advocacy to encourage reduction in the need for vehicle travel;

 (9) ensure that state government agencies establish comprehensive energy efficiency plans and become models for energy efficiency in South Carolina, and assist the Department of Education in achieving energy efficiency in public schools;

 (10) collect currently published and publicly available energy data and provide energy information clearinghouse functions in conjunction with the Governor’s Office, and conduct long‑range energy planning;

 (11) assist the Governor’s Office and the General Assembly in assessing the public economic and environmental interest on issues related to energy production, transportation, and use and provide information on the public interest in appropriate forums.

 (12) ensure that any future energy strategy that promotes carbon‑free, nongreenhouse gas emitting sources includes nuclear energy, renewable energy resources, and energy conservation and efficiency.

HISTORY: 1992 Act No. 449, Part II, Section 1; 2009 Act No. 19, Section 4, eff May 19, 2009.

Editor’s Note

Under the provisions of Chapter 34, Title 1, an agency is required to adopt the latest edition of a nationally recognized code which it is charged by statute or regulation with enforcing by giving notice in the State Register.

Effect of Amendment

The 2009 amendment added item (12) relating to future energy strategy.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑425.** Limitation on amount school districts must spend on energy conservation.

 No public school district may be required to expend more than one hundred dollars a year to comply with the provisions of this chapter.

HISTORY: 1992 Act No. 449, Pt. II, Section 4.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑430.** Annual state energy action plan.

 The State Energy Office annually shall submit to the Governor and the Public Utility Review Committee, the House Labor, Commerce and Industry Committee, and the Senate Agriculture and Natural Resources Committee a state energy action plan that includes, but is not limited to:

 (a) activities by the State Energy Office to carry out the Plan for State Energy Policy;

 (b) recommendations for long‑term quantitative and qualitative energy goals for the residential, commercial, industrial, transportation, governmental, and utility sectors, and measures of progress for these goals;

 (c) identification of obstacles to efficiency for which legislative, regulatory, or other governmental remedies are appropriate.

HISTORY: 1992 Act No. 449, Part II, Section 1; 2009 Act No. 19, Section 5, eff May 19, 2009.

Effect of Amendment

The 2009 amendment, in the introductory paragraph, substituted “the Public Utility Review Committee, the House Labor, Commerce and Industry Committee, and the Senate Agriculture and Natural Resources Committee” for “Joint Legislative Committee on Energy”.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑435.** Prior approval required for studies of alternative energy usage or conservation measures.

 In order to avoid duplicative studies, funds shall not be expended by state agencies for studies investigating alternative energy usage or conservation measures without prior approval of the State Energy Office and the Joint Legislative Committee on Energy.

HISTORY: 1995 Act No. 145, Part II, Section 8.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑440.** State Energy Office; distribution of federal funds; plans for use of funds; Energy Advisory Council; report.

 (A) All funds allocated or directed to this State by the federal government relating to energy planning, energy conservation, and energy efficiency must be allocated or directed to the State Energy Office in the Office of Regulatory Staff to be distributed in accordance with the provisions of this section; provided, however, that no funding from the following federal programs is subject to the provisions of this section:

 (1) the Low Income Home Energy Assistance Program (LIHEAP), created by Title XXVI of the Omnibus Budget Reconciliation Act of 1981 and codified as Chapter 94, Title 42 of the United States Code, as amended by the Human Services Reauthorization Act of 1984, the Human Services Reauthorization Act of 1986, the Augustus F. Hawkins Human Services Reauthorization Act of 1990, the National Institutes of Health Revitalization Act of 1993, the Low‑Income Home Energy Amendments of 1994, the Coats Human Services Reauthorization Act of 1998, and the Energy Policy Act of 2005, which is administered and funded by the United States Department of Health and Human Services on the federal level and administered locally by community action agencies; or

 (2) the Weatherization Assistance Program, created by Title IV of the Energy Conservation and Production Act of 1976 and codified as Part A, Subchapter III, Chapter 81, Title 42 of the United States Code, amended by the National Energy Conservation Policy Act, the Energy Security Act, the Human Services Reauthorization Act of 1984, and the State Energy Efficiency Programs Improvement Act of 1990 and administered and funded by the United States Department of Energy on the federal level and administered locally by community action agencies.

 Nothing in this section changes the exclusive administration of the Low Income Home Energy Assistance Program and Weatherization Assistance Program by local community action agencies through the Department of Administration’s Office of Economic Opportunity pursuant to its authority under the provisions of Chapter 45, Title 43, the Community Economic Opportunity Act of 1983.

 (B) All funds described in subsection (A) that are not exempted by items (1) and (2) must be distributed by the State Energy Office in the Office of Regulatory Staff in accordance with all requirements of federal law associated with these funds. Persons seeking to obtain funding for energy related programs must submit to the State Energy Office a plan for the use of the funds in a manner consistent with the provisions of this section.

 (C) Upon receipt of the plans required by subsection (B), the State Energy Office of the Office of Regulatory Staff must prepare an analysis of the plans and their consistency with the provisions of this section and submit that analysis to the Department Advisory Council for its review and recommendations.

 (D) There is hereby created in the Office of Regulatory Staff the Energy Advisory Council, which will advise the State Energy Office on all matters for which the State Energy Office is responsible and specifically with respect to its review of the annual plans required to be submitted pursuant to this section. The Advisory Council shall be composed of nine members as follows:

 (1) three appointed by the Governor, one of whom must have a substantial background in environmental or consumer protection matters;

 (2) three appointed by the President Pro Tempore of the Senate, one of whom must have a substantial background in environmental or consumer protection matters; and

 (3) three appointed by the Speaker of the House of Representatives, one of whom must have a substantial background in environmental or consumer protection matters.

 All appointees must have backgrounds in environmental issues; the electricity, transportation, or natural gas industries; or economic development related to these sectors.

 (E) In evaluating the plans required by this section, the Advisory Council shall consider the extent to which the plans allocate funds in a cost effective manner and promote the following alternative sources of domestic energy or avoidance of consumption of energy:

 (1) the development of energy efficiency and conservation;

 (2) renewable sources of energy, including wind power, solar power, energy from biomass sources, and energy storage;

 (3) nuclear energy; and

 (4) alternative fuels or power sources for the transportation sector.

 In considering the cost‑effectiveness of the plans the Advisory Council must consider the cost of the proposed measures as to the expected useful life of the measures being proposed and the impact of the proposed measures on consumers. For each proposed plan, the Advisory Council must consider the value of the avoided cost of complying with anticipated state and federal environmental regulations.

 (F) Upon completion of its review of plans submitted in compliance with this section, the Advisory Council must prepare a report describing the results of its review and submit copies of that report to the State Energy Office of the Office of Regulatory Staff and the Public Utility Review Committee of Article 5, Chapter 3, Title 58.

 (G) The Executive Director of the Office of Regulatory Staff shall make the final determinations of distributions of funds as required by this section, taking into account the recommendations of the Advisory Council. Grant awards shall be made in a manner consistent with this section.

HISTORY: 1992 Act No. 449, Part II, Section 1; 2006 Act No. 318, Section 231; 2014 Act No. 121 (S.22), Pt VI, Section 12, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 12, rewrote the section.

Federal Aspects

Energy conservation and renewable‑resource assistance for existing buildings, see 42 U.S.C.A. Section 6851 et seq.

Low‑income energy assistance, see 42 U.S.C.A. Section 8621 et seq.

Omnibus Budget Reconciliation Act of 1981 (OBRA), Pub.L. 97‑35, Aug. 13, 1981, 95 Stat. 357.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑450.** Consolidation of energy‑related offices and programs.

 Where possible, the State Energy Office shall encourage consolidating other offices or programs in state government related to energy, energy efficiency, and energy reliability.

HISTORY: 1992 Act No. 449, Part II, Section 1.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑460.** Effect of government restructuring on placement of State Energy Office.

 The establishment of the State Energy Office within the Office of Regulatory Staff, as provided for in this part, must be evaluated if restructuring or reorganizing of state government takes place so as to identify and provide for the proper placement of the office upon restructuring or reorganizing.

HISTORY: 1992 Act No. 449, Pt. II, Section 3; 2014 Act No. 121 (S.22), Pt VI, Section 13, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 13, substituted “Office of Regulatory Staff” for “State Budget and Control Board”.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑470.** Funding for State Energy Office.

 Funding for the State Energy Office, as created in this part, must be derived from existing financial resources available to the State and may be derived from oil overcharge funds. Personnel for the State Energy Office must be derived from the consolidation of existing state government personnel slots with no new FTE’s.

HISTORY: 1992 Act No. 449, Pt. II, Section 2.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

ARTICLE 6

State Government Energy Conservation

**SECTION 48‑52‑610.** Energy efficiency standards for state buildings.

 The State Energy Office shall develop energy efficient code standards for state‑owned and leased buildings, including public school buildings. These standards must provide for life‑cycle cost‑effectiveness.

HISTORY: 1992 Act No. 449, Part II, Section 1.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑620.** State agencies and school districts to submit energy conservation plans and reports; metering of state buildings; annual compilation of reports.

 (A)(1) Each state agency and public school district shall submit for approval to the State Energy Office an energy conservation plan for buildings in use on July 1, 2008, with a goal to reduce energy consumption by at least one percent annually for five consecutive years beginning July 1, 2008. The plan also must have a goal of ultimately reducing energy consumption for buildings in use on July 1, 2008, by twenty percent by July 1, 2020, relative to year 2000 levels. An agency shall implement all available cost‑effective energy‑saving measures to pursue these goals. In determining whether an energy‑saving method is cost effective, an agency should primarily consider the measure’s cost effectiveness over a five‑year period rather than within one fiscal year. The State Energy Office shall provide agency assistance and information needed to help meet these goals.

 (2) The provisions of this section do not apply to a building designed, constructed or rehabilitated, and maintained in compliance with the Energy Independence and Sustainable Construction Act of 2007.

 (B) In order to monitor energy consumption, the State Energy Office must determine those state buildings that require individual metering. Metering must be installed by the agency, the cost of which must be borne by the agency responsible for the utility bill for the building.

 (C)(1) Each state agency and public school district annually shall submit energy conservation reports in the manner and at the times required by the State Energy Office.

 (2) An agency that does not attain the annual reduction goals required by this section shall include in its report a detailed justification that it implemented all available, cost‑effective energy conservation methods.

 (3) An agency that submits a report indicating it has implemented all available, cost‑effective energy‑saving measures as contemplated in subsection (A) is exempt from these reporting requirements for a year in which a subsequent report would indicate no status change. The agency must notify the State Energy Office that the agency is exempt under this item.

 (D) Each public school district and state agency shall submit to the State Energy Office and each state agency shall include in its annual report to the State Department of Administration:

 (1) activities undertaken implementing its energy conservation plan; and

 (2) progress made in achieving its energy conservation goals.

 (E) The State Energy Office shall compile the reports submitted pursuant to subsection (C) to be submitted annually, no later than December thirty‑first, to the General Assembly. The State Energy Office shall provide suggested formats for plans and goals that must be submitted pursuant to subsection (A), reporting forms for reports required by subsection (C), and all technical assistance necessary for state agencies and school districts to satisfy the requirements of these subsections.

 (F) For purposes of this article:

 (1) “Energy consumption” includes, but is not limited to, electricity, natural gas, fuel oil, and propane. Energy consumption must be measured using BTU’s for each gross square foot.

 (2) “State agency” means a state government agency subject to the procurement code. For state institutions of higher learning, this definition only applies to those facilities greater than ten thousand gross square feet and does not include those facilities whose function is defined as athletics or research. For state technical colleges, this definition does not apply to those facilities whose primary function is to provide technical training and education in programs where significant energy consumption is necessary for the conduct of the academic program.

HISTORY: 1992 Act No. 449, Part II, Section 1; 2008 Act No. 318, Section 1, eff June 11, 2008.

Code Commissioner’s Note

At the direction of the Code Commissioner, references in this section to the offices of the former State Budget and Control Board, Office of the Governor, or other agencies, were changed to reflect the transfer of them to the Department of Administration or other entities, pursuant to the directive of the South Carolina Restructuring Act, 2014 Act No. 121, Section 5(D)(1), effective July 1, 2015.

Effect of Amendment

The 2008 amendment rewrote subsections (A) and (C) and added subsection (F).

CROSS REFERENCES

Limitation on amount school district must spend for energy conservation, see Section 48‑52‑425.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑630.** Energy conservation savings; division; reinvestment.

 An agency’s budget must not be reduced by the full amount of money saved through energy conservation measures. Appropriate financial incentives to encourage the reinvestment of energy costs savings into additional energy conservation areas must be provided. Energy savings must be divided among the agency, the general fund, and debt retirement of capital expenditures on energy efficiency. Agencies must be encouraged to reinvest their savings into energy conservation areas, where practical.

HISTORY: 1992 Act No. 449, Part II, Section 1.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑635.** State agency to carry forward and retain savings realized from energy conservation measures.

 Pursuant to Section 48‑52‑630, an agency’s savings realized in the prior fiscal year from implementing an energy conservation measure as compared to a baseline energy use as certified by the State Energy Office, may be retained and carried forward into the current fiscal year. This savings, as certified by the State Energy Office, must first be used for debt retirement of capital expenditures, if any, on the energy conservation measure, after which time savings may be used for agency operational purposes and where practical, reinvested into energy conservation areas. The agency must report all actual savings in the energy portion of its annual report to the Office of Regulatory Staff.

HISTORY: 1995 Act No. 145, Part II, Section 16; 2014 Act No. 121 (S.22), Pt VI, Section 14, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 14, substituted “Office of Regulatory Staff” for “State Budget and Control Board”.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑640.** Energy conservation products marketed to State; certification and procurement requirements.

 (A) A vendor of energy conservation products making an energy conservation claim and attempting to sell to state government shall submit the product to the State Energy Office for evaluation and certification.

 (B) Energy conservation products certified by the State Energy Office may be purchased by a state agency subject to the state procurement code, but only if the State Energy Office considers use of the energy conservation product more cost efficient than an uncertified product over a five‑year period. The State Energy Office may certify only a product that meets or exceeds the Federal Energy Star standards designed by the United States Environmental Protection Agency and the United States Department of Energy.

 (C) A state agency shall submit a disclaimer statement to the State Energy Office with its annual report stating that it did not purchase an energy conservation product that had not been certified by the State Energy Office.

 (D) Each state agency head shall require the agency’s procurement officer or other person authorized to purchase supplies for the agency to replace an incandescent light bulb used by the agency with a compact fluorescent bulb when the incandescent bulb needs to be replaced, and if the agency determines use of a compact fluorescent bulb is more cost effective over a five‑year period than use of an incandescent bulb. A state agency may purchase incandescent bulbs for the agency if the agency verifies, in writing, that compelling circumstances require the use of incandescent bulbs.

HISTORY: 1992 Act No. 449, Part II, Section 1; 2008 Act No. 318, Section 2, eff June 11, 2008.

Effect of Amendment

The 2008 amendment rewrote subsection (B); made nonsubstantive changes in subsection (C); and added subsection (D) relating to replacing incandescent light bulbs with compact fluorescent bulbs.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑650.** Revolving loan fund for energy conservation measures.

 The State Energy Office shall establish a mechanism for a revolving loan fund for state agencies and political subdivisions of the State to use for energy conservation measures. Repayment may be from the savings in the entity’s utility budget.

HISTORY: 1992 Act No. 449, Part II, Section 1; 1999 Act No. 89, Section 2.

CROSS REFERENCES

Lease purchase or financing agreement subject to constitutional debt limit, see Section 11‑27‑110.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑660.** Lease purchase agreements with energy efficiency products vendors and utility companies; procurements for energy‑using goods and facilities.

 (A) A state agency or political subdivision of the State may enter into lease purchase agreements for a duration of more than one year with vendors of energy efficiency products and utility companies. No funds disclaimer clause as provided for in Section 11‑35‑2030 is required in these contracts. Repayment is allowed from savings on the entity’s budget.

 (B) Procurements under the South Carolina Consolidated Procurement Code for energy‑using goods and facilities must be procured through competitive sealed proposals pursuant to Section 11‑35‑1530 with life cycle cost criteria stated as an evaluation factor that must be addressed in a proposal.

HISTORY: 1992 Act No. 449, Part II, Section 1; 1999 Act No. 89, Section 3.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑670.** Guaranteed energy, water, or wastewater savings contracts.

 (A) A governmental unit may enter into a guaranteed energy, water, or wastewater savings contract for a duration of more than one year with vendors of guaranteed energy, water, or wastewater savings programs. The financing for the guaranteed energy, water, or wastewater savings contracts may be provided by the vendor of the guaranteed energy, water, or wastewater savings program or by a third‑party financial institution or company. No funds disclaimer clause as provided for in Section 11‑35‑2030 is required in these contracts. Repayment may be made from savings on the agency utility budget.

 (B) A governmental unit may award a guaranteed energy, water, or wastewater savings contract pursuant to Section 11‑35‑1530 or in the case of a governmental unit not subject to the South Carolina Consolidated Procurement Code, pursuant to other applicable procurement law if it includes a written guarantee that savings will meet or exceed the cost of energy, water, or wastewater conservation measures. A governmental unit may request that the State Energy Office review the methodology used by the guaranteed energy, water, or wastewater savings vendor to project and measure savings and future billable revenues. The State Energy Office shall deliver the written approval or shall deliver a written notice that it has determined not to deliver the approval within thirty days of the receipt of a guaranteed energy, water, or wastewater performance contract. The State Energy Office is authorized to charge a reasonable hourly rate for its review of guaranteed energy, water, or wastewater savings programs or guaranteed energy, water, or wastewater savings contracts, and the payment of the charges may be included in the financing for the guaranteed energy, water, or wastewater savings contract.

 (C) For purposes of this section, “governmental unit” means a state government agency, department, institution, college, university, technical school, legislative body, or other establishment or official of the executive, judicial, or legislative branches of this State authorized by law to enter into contracts including all local political subdivisions including, but not limited to, counties, municipalities, public school districts, or public service or special purpose districts.

 (D) For purposes of this section, “guaranteed energy, water, or wastewater savings contract” means a contract for the evaluation and recommendation of energy, water, or wastewater conservation measures and for implementation of one or more of these measures. The contract must provide that all payments, except obligations on termination of the contract before its expiration, must be made over time and the energy, water, or wastewater cost savings or billable revenue increases resulting from implementation of the energy, water, or wastewater conservation measures may be used to make payments for the energy, water, or wastewater conservation systems installed pursuant to guaranteed energy, water, or wastewater savings contracts. Annual revenues or savings from the guaranteed contract may be less than annual payments, if during the length of the contract aggregate savings occur as provided for by the terms of the contract.

 (E) For purposes of this section “energy, water, or wastewater conservation measure” means a training program, facility alteration, or technology upgrade designed to produce measurable, long‑term reductions in energy, water, wastewater, or other consumption, personnel costs, operational costs including, but not limited to:

 (1) insulation of the building structure or systems within the building;

 (2) storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;

 (3) automated or computerized energy control systems;

 (4) heating, ventilating, or air conditioning system modifications or replacements;

 (5) replacement or modification of lighting fixtures to increase the energy efficiency of the 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 for the lighting system after the proposed modifications are made;

 (6) energy recovery systems;

 (7) 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;

 (8) water and sewer conservation measures including, without limitation, plumbing fixtures and infrastructure;

 (9) equipment upgrades that improve accuracy of billable revenue generating systems;

 (10) automated, electronic, or remotely controlled systems or measures that reduce direct personnel costs; and

 (11) such other energy, water, or wastewater measures as may provide measurable, long‑term operating costs reductions or billable revenue increases.

HISTORY: 1992 Act No. 449, Part II, Section 1; 2004 Act No. 275, Section 1.

Code Commissioner’s Note

The reference to “Section 11‑35‑1530” in subsection (B) of this section originally read “Section 11‑35‑130.” At the direction of the Code Commissioner, the reference was changed to “Section 11‑35‑1530” to correct an error in the original Act.

Editor’s Note

Under the provisions of Chapter 34, Title 1, an agency is required to adopt the latest edition of a nationally recognized code which it is charged by statute or regulation with enforcing by giving notice in the State Register.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

**SECTION 48‑52‑680.** Identification of “energy efficient” goods; energy conservation standards; building specifications.

 (A) The State Energy Office shall assist the Materials Management Office as established in Section 11‑35‑810 and all governmental bodies defined in and subject to the Consolidated Procurement Code, by identifying goods which are “energy efficient” or for which the State can achieve long‑term savings through consideration of life cycle costs. The State Energy Office must compile a list of these goods. Before issuing any solicitation for these goods, the procuring agency shall notify the State Energy Office which shall assist in drafting or reviewing specifications for the goods being procured and which shall approve the specifications before issuing the solicitation. Upon request of a governmental body the State Energy Office shall provide assistance in evaluating bids or offers received in response to the solicitation to ensure that procurements are made in accordance with the purposes and policies of this article.

 (B) The State Energy Office shall assist the Office of the State Engineer and all governmental bodies defined in and subject to the Consolidated Procurement Code by drafting energy conservation standards to be applied in the design and construction of buildings that are owned or lease/purchased by these governmental bodies. Before any construction contracts are bid under Section 11‑35‑3020, the State Engineer’s Office or the governmental body soliciting the bids shall review the plans and specifications to ensure that they are in compliance with the standards drafted by the State Energy Office. The State Energy Office shall provide assistance in reviewing these plans and specifications upon the request of the State Engineer’s Office or the affected governmental body.

 (C) The State Energy Office shall provide the Office of Property Management, Division of General Services of the Department of Administration, information to be used in evaluating energy costs for buildings or portions of buildings proposed to be leased by governmental bodies that are defined in and subject to the Consolidated Procurement Code. The information provided must be considered with the other criteria provided by law by a governmental body before entering into a real property lease.

HISTORY: 1992 Act No. 449, Part II, Section 1; 2014 Act No. 121 (S.22), Pt VI, Section 15, eff July 1, 2015.

Effect of Amendment

2014 Act No. 121, Section 15, in subsection (C), substituted “Management, Division of General Services of the Department of Administration” for “Management of the Budget and Control Board, Division of General Services”.

Library References

Environmental Law 13.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Sections 101, 106, 130 to 132, 173.

ARTICLE 8

Energy Independence and Sustainable Construction Act of 2007

Editor’s Note

2007 Act No. 88, Section 2, provides as follows:

“This act takes effect upon approval by the Governor and will apply to all major facility projects that receive approval of the State Budget and Control Board—Permanent Improvement Project Request A‑1 form on or after the effective date.”

**SECTION 48‑52‑800.** Citation of article.

 This article may be cited as the “Energy Independence and Sustainable Construction Act of 2007”.

HISTORY: 2007 Act No. 88, Section 1, eff June 20, 2007.

**SECTION 48‑52‑810.** Definitions.

 As used in this article:

 (1) “Board” means the State Fiscal Accountability Authority’s governing board.

 (2) “Building project” means the design, construction, renovation, operation, and maintenance of any inhabited physical structure and its associated project building site.

 (3) “Commercial interior fit‑out” means interior design and installation by owners or tenants of new or existing office space, typically exclusive of structural components and core and shell elements.

 (4) “GBI” means the Green Building Initiative.

 (5) “Globes” means the level of a building’s sustainability and energy efficiency performance as determined by GBI’s Green Globes Rating System.

 (6) “Green Globes Rating System” means the environmental building rating system established by the Green Building Initiative.

 (7) “High‑performance building” means a building designed to achieve integrated systems design and construction so as to significantly reduce or eliminate the negative impact of the built environment.

 (8) “LEED” means the U.S. Green Building Council’s Leadership in Energy and Environmental Design Rating System.

 (9) “LEED Silver standard” means the Silver standard as set forth by USGBC’s LEED Green Building Rating System.

 (10)(a) “Major facility project” means:

 (i) a state‑funded new construction building project in which the building to be constructed is larger than ten thousand gross square feet;

 (ii) a state‑funded renovation project in which the project involves more than fifty percent of the replacement value of the facility or a change in occupancy; or

 (iii) a state‑funded commercial interior tenant fit‑out project that is larger than seven thousand five hundred square feet of leasable area.

 (b) “Major facility project” does not mean:

 (i) a building, regardless of size, that does not have conditioned space as defined by Standard 90.1 of the American Society of Heating, Refrigerating and Air‑Conditioning Engineers;

 (ii) a public kindergarten, elementary school, middle school, secondary school, junior high school, or high school, all as defined in Section 59‑1‑150;

 (iii) a correctional facility constructed for the Department of Corrections, Department of Mental Health, or Department of Juvenile Justice;

 (iv) a building project funded by the State Ports Authority, the Coordinating Council for Economic Development, or the State Infrastructure Bank; or

 (v) a building project funded by the Department of Health and Environmental Control in which the primary purpose of the building project is for the storage of archived documents.

 (11) “Renovation project” means a building project involving the modification or adaptive reuse of an existing facility.

 (12) “Third‑party commissioning agent” means a person accredited by the USGBC or GBI, with expertise in building system performance, who will analyze, evaluate, and confirm the proper function and performance of a high performance building, its systems, equipment, and indoor air quality, and who did not participate in the original certification of the major facility project or renovation project.

 (13) “USGBC” means the United States Green Building Council.

HISTORY: 2007 Act No. 88, Section 1, eff June 20, 2007; 2014 Act No. 150 (H.3592), Section 3, eff July 1, 2015.

Effect of Amendment

2014 Act No. 150, Section 3, in subsection (1), substituted “Fiscal Accountability Authority’s governing board” for “Budget and Control Board”.

CROSS REFERENCES

Certain major facility projects may not seek rating credit or point for building product disclosure and optimization credit, see Section 48‑52‑827.

Major facility projects may not seek rating points which discriminate against State wood products, see Section 48‑23‑300.

**SECTION 48‑52‑820.** Promoting effective energy and environmental standards for buildings; adoption of policies and procedures.

 The purpose of this section is to promote effective energy and environmental standards for construction, rehabilitation, and maintenance of buildings in this State, improving the state’s capacity to design, build, and operate high‑performance buildings and creating new jobs and contributing to economic growth and increasing the state’s energy independence. To accomplish the objectives of this article, the State shall adopt policies and procedures that:

 (1) optimize the energy performance of buildings throughout this State;

 (2) increase the demand for environmentally preferable building materials, finishes, and furnishings;

 (3) improve environmental quality in this State by decreasing the discharge of pollutants from state buildings and their manufacture;

 (4) create public awareness of new technologies that can improve the health and productivity of building occupants by meeting advanced criteria for indoor air quality;

 (5) improve working conditions and reduce building‑related health problems;

 (6) reduce the state’s dependence on imported sources of energy through buildings that conserve energy and utilize local and renewable energy sources;

 (7) protect and restore this state’s natural resources by avoiding development of inappropriate building sites;

 (8) reduce the burden on municipal water supply and treatment by reducing potable water consumption;

 (9) reduce waste generation and manage waste through recycling and diversion from landfill disposal;

 (10) establish life cycle cost analysis as the appropriate and most efficient analysis to determine a building project’s optimal performance level;

 (11) ensure each building project’s systems are designed, installed, and tested to perform according to the building’s design intent and its operational needs through third‑party, post‑construction review and verification; and

 (12) authorize the board to pursue ENERGY STAR designation from the United States Environmental Protection Agency to further demonstrate a building project’s energy independence.

HISTORY: 2007 Act No. 88, Section 1, eff June 20, 2007.

CROSS REFERENCES

Energy Independence and Sustainable Construction Advisory Committee, creation, membership, duties, see Section 48‑52‑865.

**SECTION 48‑52‑825.** Adoption of current facility energy efficiency rating system.

 (A)(1)(a) The board shall automatically adopt by reference the most current editions of the rating systems developed by Green Building Initiative and U.S. Green Building Council’s Leadership in Energy and Environmental Design used for certification pursuant to this article. Upon adoption, the most current edition of the rating system shall be used for certification purposes under this article. Provided, however, that the most current edition of the rating system shall be subject to regulations concerning that edition of the rating system when promulgated pursuant to item (2).

 (b) In the event that two rating systems from the same organization have been adopted by reference and are effective concurrently for certification purposes, then either rating system may be utilized to certify projects as required pursuant to this article. The latter of the two rating systems to be adopted by reference pursuant to subitem (a) shall be deemed to be the most current edition of the rating system for purposes of review and regulation pursuant to subsection (B).

 (2) The board shall refer new or updated rating systems to the Energy Independence and Sustainable Construction Advisory Committee for consideration pursuant to Section 48‑52‑865(B) immediately upon the release of the new or updated rating system and prior to the rating system’s effective date. After receiving the advisory committee’s recommendations, the board shall promulgate regulations to amend the rating system under consideration to remove specific provisions, provided that the recommended amendments would not so alter the rating system as to render certification under the rating system impossible. If the advisory committee does not make a recommendation within the time period prescribed in Section 48‑52‑865(B)(2) the board, upon consultation with the State Engineer, shall proceed with promulgating regulations as provided in this item.

 (B) The regulations promulgated pursuant to subsection (A) must provide that the rating systems provide certification credits for, preference for, and promotes building materials or furnishings, including, but not limited to, wood grown in this State, and masonry, plastics, concrete, steel, textiles, and wood that are manufactured or produced within the State. The regulations promulgated may not place at a disadvantage building materials or furnishings that are manufactured or produced within the State.

HISTORY: 2014 Act No. 150 (H.3592), Section 1, eff April 7, 2014.

CROSS REFERENCES

Energy Independence and Sustainable Construction Advisory Committee, creation, membership, duties, see Section 48‑52‑865.

**SECTION 48‑52‑827.** Certain major facility projects may not seek rating credit or point for building product disclosure and optimization credit.

 A major facility project, as defined in Section 48‑52‑810(10), requesting third‑party certification shall not be allowed to seek a rating credit or point for building product disclosure and optimization credit that requires material ingredient reporting; and, the language would apply to any subsequent editions of rating systems developed by the Green Building Initiative, the U.S. Green Building Council’s Leadership in Energy and Environmental Design, or third‑party certification initiatives.

HISTORY: 2014 Act No. 150 (H.3592), Section 1, eff April 7, 2014.

**SECTION 48‑52‑830.** Certification standards for major facility projects.

 (A)(1) All major facility projects in this State, as defined in Section 48‑52‑810(10)(i), must be designed, constructed, and at least certified as receiving two globes using the Green Globes Rating System or receiving the LEED Silver standard. All major facility projects in this State, as defined in Section 48‑52‑810(10)(a)(ii) or (iii), must be analyzed using a life cycle cost analysis comparing the cost and benefits of designing, constructing, maintaining, and operating the facility at the LEED Silver standard or two globes standard, or better, with certification; normal industry and regulatory standards as applicable; or some standard between the two that causes the project to be designed and constructed in a manner that achieves the lowest thirty‑year life cycle cost.

 (2) In obtaining certification as receiving two globes using the Green Globes Rating System, a major facility project must earn at least twenty percent of the available points for energy performance under “C.1.1 Energy Consumption”. In obtaining certification as meeting the LEED Silver standard, a major facility project must earn at least forty percent of the available points for energy performance under “EA Credit: Optimize Energy Performance”. The Office of State Engineer may waive the requirements of this item for a proposed major facility project should it determine that the costs of meeting this item are not economically feasible. The Office of State Engineer shall notify the board of the reason for the issuance of a waiver.

 (B) The board may petition the General Assembly to require all major facility projects be certified to a high‑performance building rating system standard in addition to or instead of the systems provided in this chapter. However, any alternate rating system adopted by the General Assembly must be no less stringent than the systems provided in this chapter.

 (C) The board shall administer and enforce the provisions in this article. Also, the board may adopt rules and promulgate regulations to comply with the goals set forth in Section 48‑52‑820.

HISTORY: 2007 Act No. 88, Section 1, eff June 20, 2007; 2014 Act No. 150 (H.3592), Section 4, eff April 7, 2014.

Effect of Amendment

2014 Act No. 150, Section 4, in subsection (A)(2), substituted “EA Credit” for “EA Credit 1”, and twice substituted “Office of State Engineer” for “State Engineer’s Office”.

**SECTION 48‑52‑840.** Certification using LEED rating system; inspection and monitoring of environmental benefits.

 (A) In order to become certified using a LEED rating system, a major facility project shall register with USGBC prior to filing the first building construction permit application. USGBC shall have the sole discretion in determining whether a major facility project receives certification.

 (B) All major facility projects that were certified at the LEED Silver standard or higher must be inspected by a third‑party commissioning agent in the fifth, tenth, and fifteenth year following certification. The third‑party commissioning agent shall determine whether the building is operating at the standard to which it was originally designed and certified. The third‑party commissioning agent shall report its findings to the State Engineer. The report must include, but is not limited to, the building’s savings on energy and water, the level of its indoor air quality, the existing system’s function and performance, problems with the system, and whether the system’s performance meets the facility’s requirements. If the State Engineer determines that the building is not operating within the spirit of this article, the State Engineer may take appropriate measures to bring the building into compliance.

 (C) The board shall develop and implement a process to monitor and evaluate the energy and environmental benefits associated with each major facility project designed, constructed, or renovated pursuant to this article. The monitoring and evaluation of each major facility project shall commence one year after certification of the major facility project and shall continue for nineteen years thereafter. All data concerning energy and environmental benefits collected pursuant to this section must be made available to the Department of Administration to be compiled and submitted to the General Assembly pursuant to Section 48‑52‑860.

HISTORY: 2007 Act No. 88, Section 1, eff June 20, 2007.

**SECTION 48‑52‑850.** Certification using Green Globes Rating System; inspection and monitoring of environmental benefits.

 (A) In order to become certified using a Green Globes Rating System, a major facility project shall register with GBI prior to filing the first building construction permit application. GBI shall have the sole discretion in determining whether a major facility project receives certification.

 (B) All major facility projects that were first certified as receiving two globes using the Green Globes Rating System must be inspected by a third‑party commissioning agent in the fifth, tenth, and fifteenth year following certification. The third‑party commissioning agent shall determine whether the building is operating at the standard to which it was originally designed and certified. The third‑party commissioning agent shall report its findings to the State Engineer. The report must include, but is not limited to, the building’s savings on energy and water, the level of its indoor air quality, the existing system’s function and performance, problems with the system, and whether the system’s performance meets the facility’s requirements. If the State Engineer determines that the building is not operating within the spirit of this article, the State Engineer may take appropriate measures to bring the building into compliance.

 (C) The board shall develop and implement a process to monitor and evaluate the energy and environmental benefits associated with each major facility project designed, constructed, or renovated pursuant to this article. The monitoring and evaluation of each major facility project shall commence one year after certification of the major facility project and shall continue for nineteen years thereafter. All data concerning energy and environmental benefits collected pursuant to this section must be made available to the Department of Administration to be compiled and submitted to the General Assembly pursuant to Section 48‑52‑860.

HISTORY: 2007 Act No. 88, Section 1, eff June 20, 2007.

**SECTION 48‑52‑860.** Annual report; contents.

 The board annually shall submit a report regarding major facility projects to the General Assembly that includes:

 (1) the number and types of buildings designed and constructed;

 (2) the level of certification of each building designed, constructed, or renovated;

 (3) actual savings in energy costs;

 (4) a description of all potential environmental benefits, including, but not limited to, water resources savings and the reduction of waste generation;

 (5) the ability of buildings to continue to operate at the standard to which it was originally certified;

 (6) the reason for any waiver granted by the State Engineer’s Office; and

 (7) any conflicts or barriers that hinder the effectiveness of this article.

HISTORY: 2007 Act No. 88, Section 1, eff June 20, 2007.

**SECTION 48‑52‑865.** Energy Independence and Sustainable Construction Advisory Committee; creation; membership; duties.

 (A)(1) There is established the Energy Independence and Sustainable Construction Advisory Committee. The committee shall consist of thirteen members, ten of which shall be appointed by the Governor for terms of four years until their successors are appointed and qualified. The committee shall be composed of the following:

 (a) the State Engineer, or his designee, who shall serve as chairman;

 (b) the Director of the State Energy Office, or his designee;

 (c) the Director of the Department of Health and Environmental Control, or his designee;

 (d) one member recommended by the Association of General Contractors;

 (e) two members recommended by the Commission on Higher Education, one of which shall be appointed from either a research university or a comprehensive teaching institution and one of which shall be appointed from either a regional two‑year campus of the University of South Carolina or a technical college;

 (f) one member recommended by the South Carolina Manufacturer’s Alliance;

 (g) one member recommended by the American Chemistry Council;

 (h) one member recommended by the South Carolina Chapter of the American Institute of Architects;

 (i) one member recommended by the South Carolina Forestry Association;

 (j) one member recommended by the South Carolina Council of Engineering and Surveying Societies;

 (k) one member recommended by the South Carolina Chapter of the American Society of Heating, Refrigerating and Air Conditioning Engineers; and

 (l) one member recommended by the conservation community.

 (2) When making appointments to the committee, the Governor shall appoint members that have subject area expertise related to the design, engineering, construction, operation, maintenance, management, energy management, or growing or manufacturing products used in major facility projects certified under this article.

 (B)(1) The committee shall:

 (a) review and analyze all rating systems referred to it by the board pursuant to Section 48‑52‑825;

 (b) closely monitor the development of new rating systems, or updates to existing rating systems, to expedite review and analysis of the new or updated rating systems pursuant to subitem (a);

 (c) review and analyze rating systems in use concerning the rating systems’ effectiveness in meeting the goals set forth in Section 48‑52‑820;

 (d) make recommendations to the State Engineer concerning the promulgation of regulations concerning rating systems referred to it by the board pursuant to Section 48‑52‑825;

 (e) report to the board concerning the effectiveness of current rating systems in meeting the goals set forth in Section 48‑52‑820; and

 (f) develop and implement a methodology by which the cost‑benefit ratio of the rating systems may be measured so that the State may consider the return on its investment for projects subject to this chapter.

 (2) The committee shall make recommendations to the board concerning the promulgation of regulations relating to rating systems referred to it by the board pursuant to Section 48‑52‑825 no later than thirty days after the referral. The thirty day review time shall commence on the day of referral.

 (C)(1) The committee shall meet as soon as practicable after being referred new rating systems pursuant to Section 48‑52‑820.

 (2) Except as provided in item (1), the committee shall meet quarterly, or more frequently as necessary upon the call of the chair or a majority of the membership.

 (3) Seven members constitutes a quorum to transact committee business.

 (D) Vacancies on the committee shall be filled in the manner of the original appointment.

 (E) Members of the committee shall not receive per diem, mileage, and subsistence as provided by law for members of boards, commissions, and committees.

HISTORY: 2014 Act No. 150 (H.3592), Section 2, eff April 7, 2014.

CROSS REFERENCES

Adoption of current facility energy efficiency rating system, see Section 48‑52‑825.

ARTICLE 10

Energy Efficient Manufactured Homes Incentive Program

**SECTION 48‑52‑870.** Purpose of program; adoption of rules.

 (A) The Energy Efficient Manufactured Homes Incentive Program is established to provide financial incentives for the purchase and installation of energy efficient manufactured homes in South Carolina. Any person who purchases a manufactured home designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each agency’s energy saving efficiency requirements or which has been designated as meeting or exceeding such requirements under each agency’s ENERGY STAR program from a retail dealership licensed by the South Carolina Manufactured Housing Board for use in this State is eligible for a nonrefundable income tax credit equal to seven hundred fifty dollars. The credit may be claimed beginning July 1, 2009, and no later than July 1, 2019.

 (B) The South Carolina Energy Office shall adopt rules pursuant to this article to develop tax credit applications and administer the issuance of tax credits and must track and report on the fiscal and energy impacts of this program.

HISTORY: 2008 Act No. 354, Section 2, eff July 1, 2009.

Code Commissioner’s Note

Pursuant to the direction of the Code Commissioner, “this article to” was added in subsection (B).

ARTICLE 12

State Government Energy Efficiency and Renewable Energy Goals

**SECTION 48‑52‑910.** Implementation of conservation measures by agencies; audit; reports.

 (A) Each agency must consider reductions of its energy, water, and wastewater use, and must implement recommended conservation measures to the degree the agency determines that the measures are cost effective. An audit must be performed by internal or external auditors, or by an energy services company in the manner provided in Section 48‑52‑670. Audit results and recommendations must be included in the report to the State Energy Office.

 (B) Each agency must comply with this section by July 1, 2011.

HISTORY: 2009 Act No. 19, Section 2, eff May 19, 2009.