

HB 1724: SUSTAINABLE CAPITAL IMPROVEMENT PROJECTS ACT

PURPOSE

Across the Commonwealth, public entities are faced with long-deferred maintenance and unfunded infrastructure, sustainability, and facility upgrades. Counties, municipalities and school districts do not have adequate capital resources to address these issues and often cannot incur additional indebtedness to finance these projects. Public entities need additional tools to be able to fund necessary facility infrastructure projects, create energy efficiency costs savings and reduce waste and taxpayer costs. HB 1724, called Sustainable Capital Improvement Program (“SCIP”) is an innovative way to assist public entities with addressing much-needed facility upgrades while preserving precious capital.

SUMMARY

This legislation will authorize the use of SCIPs, giving public entities another important tool for financing necessary improvements to facility infrastructure and achieving much-needed energy efficiency cost savings. A SCIP is a long-term engagement which provides for private sector capital investment thus allowing public entities to benefit from long-term budget certainty while addressing infrastructure deficiencies. SCIPs protect public entities from equipment failure, replacement, and maintenance costs by tying project and system performance goals to financial payments. Essentially, this is a public-private partnership for energy infrastructure projects. SCIP will meet prevailing wage requirements.

KEY PROVISIONS

DEFINITIONS

Developer	The private sector entity or entities which are providing both capital and services to an Eligible Entity or group of Eligible Entities.
Eligible Entities	Any state public sector owned or operated facility, local government, municipal subdivision, state college or university, public hospital or K-12 schools.
Facility	Any building, transportation, distribution system, water system and other structures associated with the Eligible Entity.
Key Performance Indicators	Metrics which shall be incorporated into SCIP agreements between the Eligible Entity and the Developer to maximize system efficiency, system availability, project timelines and service response times.
Sustainable Capital Improvement Project Agreement	A long-term contract (up to 35 years) for the design, construction, financing, asset ownership, operation and maintenance of facility improvements undertaken pursuant to the Act.

AUTHORIZATION

Authorizes Eligible Entities to initiate and utilize SCIPs to finance facility infrastructure projects pursuant to this Act.

Provides for the scope of projects to be undertaken pursuant to this Act, which may include: implementation of Facility improvements, upgrades, replacements, modification or additions to improve indoor air quality, reduce waste, decarbonize the built environment, reduce greenhouse gas emissions, manage fuel and utility supplies, provide resilience, address sustainability needs, upgrade distribution systems, improve environmental infrastructure, implement on site energy production and storage systems, implement cost reduction strategies and train staff and educate the general public.

Requires that Developer design projects to meet the Key Performance Indicators set by the Eligible Entity.

Mandates that construction costs are to be on a firm, fixed price basis with a defined completion date and any maintenance and operational services are on firm, fixed price basis with annual adjustments defined by the SCIP Agreement.

Provides that payments from the Eligible Entity are subject to under-performance or non-performance on the KPIs.

PROCUREMENT PROCESS

Allow Eligible Entities to procure project development and services on a best value basis, considering such factors as: the skills of the Developer, Developer qualifications and cost analysis.

Requires the use of RFQs and/or RFPs for the procurement of project design, build, operation, maintenance and performance.

Defines the structure of the Project Development and SCIP Agreements, including standard contract terms and conditions to implement the design, build, operation, maintenance and performance of the asset.

SUPERVISION AND TECHNICAL ASSISTANCE BY THE PA ENERGY OFFICE

Authorizes the PA Energy Office to assist and advise Eligible Entities with the review, development and implementation of SCIPs pursuant to this act.

The PA Energy Office is not authorize to approve or reject a proposed SCIP implementation.

OTHER FUNDING

Provides for the use of supplemental public funding to reduce the cost of projects implemented pursuant to this Act.

Other funding could include tax credits, grants, or other financing instruments.

REVENUE IMPACT

As there is not required administrative oversight or regulatory jurisdiction for SCIP projects and agreements, there is no cost to the Commonwealth for the use of SCIPs by Eligible Entities.