

1-1 By: Paddie (Senate Sponsor - Hinojosa) H.B. No. 3583
 1-2 (In the Senate - Received from the House May 14, 2021;
 1-3 May 14, 2021, read first time and referred to Committee on Business
 1-4 & Commerce; May 19, 2021, reported favorably by the following vote:
 1-5 Yeas 8, Nays 0; May 19, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to energy savings performance contracts.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Section 302.001(4), Local Government Code, is
 1-22 amended to read as follows:
 1-23 (4) "Energy savings performance contract" means a
 1-24 contract with a provider for energy or water conservation or usage
 1-25 measures in which the estimated energy savings, utility cost
 1-26 savings, increase in billable revenues, or increase in meter
 1-27 accuracy resulting from the measures is subject to guarantee to
 1-28 offset the cost of the energy or water conservation or usage
 1-29 measures over a specified period. The term does not include the
 1-30 design or new construction of a water supply project, water plant,
 1-31 wastewater plant, water and wastewater distribution or conveyance
 1-32 facility, or drainage project. The term includes a contract
 1-33 related to the pilot program described by Subdivision (9-a) and a
 1-34 contract for the installation or implementation of the following in
 1-35 new or existing facilities, including all causally connected work:
 1-36 (A) insulation of a building structure and
 1-37 systems within the building;
 1-38 (B) storm windows or doors, caulking or weather
 1-39 stripping, multiglazed windows or doors, heat-absorbing or
 1-40 heat-reflective glazed and coated window or door systems, or other
 1-41 window or door system modifications that reduce energy consumption;
 1-42 (C) automatic energy control systems, including
 1-43 computer software and technical data licenses;
 1-44 (D) heating, ventilating, or air-conditioning
 1-45 system modifications or replacements that reduce energy or water
 1-46 consumption;
 1-47 (E) lighting fixtures that increase energy
 1-48 efficiency;
 1-49 (F) energy recovery systems;
 1-50 (G) electric systems improvements;
 1-51 (H) water-conserving fixtures, appliances, and
 1-52 equipment or the substitution of non-water-using fixtures,
 1-53 appliances, and equipment;
 1-54 (I) water-conserving landscape irrigation
 1-55 equipment;
 1-56 (J) landscaping measures that reduce watering
 1-57 demands and capture and hold applied water and rainfall, including:
 1-58 (i) landscape contouring, including the use
 1-59 of berms, swales, and terraces; and
 1-60 (ii) the use of soil amendments that
 1-61 increase the water-holding capacity of the soil, including compost;

2-1 (K) rainwater harvesting equipment and equipment
2-2 to make use of water collected as part of a storm-water system
2-3 installed for water quality control;

2-4 (L) equipment for recycling or reuse of water
2-5 originating on the premises or from other sources, including
2-6 treated municipal effluent;

2-7 (M) equipment needed to capture water from
2-8 nonconventional, alternate sources, including air-conditioning
2-9 condensate or graywater, for nonpotable uses;

2-10 (N) metering or related equipment or systems that
2-11 improve the accuracy of billable-revenue-generation systems;

2-12 (O) alternative fuel programs resulting in
2-13 energy cost savings and reduced emissions for local government
2-14 vehicles, including fleet vehicles;

2-15 (P) programs resulting in utility cost savings;
2-16 or

2-17 (Q) other energy or water conservation-related
2-18 improvements or equipment, including improvements or equipment
2-19 relating to renewable energy or nonconventional water sources or
2-20 water reuse.

2-21 SECTION 2. Section 302.005, Local Government Code, is
2-22 amended by adding Subsections (d) and (e) to read as follows:

2-23 (d) The scope of an energy savings performance contract may
2-24 not be modified under this section by change order, contract
2-25 addendum, or other method:

2-26 (1) to perform work that is not related to, connected
2-27 with, or otherwise ancillary to the measures identified in the
2-28 original scope of an energy savings performance contract; or

2-29 (2) in a way that increases the price of the original
2-30 awarded contract by more than 25 percent of the original contract
2-31 value.

2-32 (e) Subsection (d) applies only to the design or
2-33 construction of a water supply project, water plant, wastewater
2-34 plant, water and wastewater distribution or conveyance facility, or
2-35 drainage project.

2-36 SECTION 3. Chapter 302, Local Government Code, is amended
2-37 by adding Section 302.008 to read as follows:

2-38 Sec. 302.008. ENFORCEMENT. (a) A contract entered into or
2-39 an arrangement made in violation of this chapter is voidable as
2-40 against public policy.

2-41 (b) This chapter may be enforced through an action for
2-42 declaratory or injunctive relief filed not later than the 10th day
2-43 after the date the contract is awarded.

2-44 SECTION 4. The changes in law made by this Act do not apply
2-45 to an energy savings performance contract entered into before the
2-46 effective date of this Act, and the former law governing the
2-47 contract is continued in effect for that purpose.

2-48 SECTION 5. This Act takes effect immediately if it receives
2-49 a vote of two-thirds of all the members elected to each house, as
2-50 provided by Section 39, Article III, Texas Constitution. If this
2-51 Act does not receive the vote necessary for immediate effect, this
2-52 Act takes effect September 1, 2021.

2-53 * * * * *