

By: McCall

H.B. No. 2425

Substitute the following for H.B. No. 2425:

By: Woolley

C.S.H.B. No. 2425

A BILL TO BE ENTITLED

AN ACT

1
2 relating to state and certain local fiscal matters; making an
3 appropriation.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 103.051(a), Civil Practice and Remedies
6 Code, is amended to read as follows:

7 (a) To apply for compensation under this subchapter, the
8 claimant must file with the [~~judicial section of the~~] comptroller's
9 judiciary section [office]:

10 (1) an application for compensation provided for that
11 purpose by the comptroller;

12 (2) a verified copy of the pardon or court order
13 justifying the application for compensation; [~~and~~]

14 (3) a statement provided by the Texas Department of
15 Criminal Justice verifying the length of incarceration; and

16 (4) a certification of the claimant's actual innocence
17 of the crime for which the claimant was sentenced that is signed by
18 the attorney representing the state in the prosecution of felonies
19 in the county in which the sentence was rendered.

20 SECTION 2. Section 14(e), Article 42.12, Code of Criminal
21 Procedure, as added by Chapter 1188, Acts of the 76th Legislature,
22 Regular Session, 1999, is amended to read as follows:

23 (e) The clerk of a court that collects a fee imposed under
24 Subsection (c)(2) shall remit the fee to the comptroller not later

1 than the last day of the month following the end of the calendar
2 quarter in which the fee is collected, and the comptroller shall
3 deposit the fee into the general revenue fund. If the clerk does
4 not collect a fee imposed under Subsection (c)(2), the clerk is not
5 required to file any report required by the comptroller relating to
6 the collection of the fee. In requiring the payment of a fee under
7 Subsection (c)(2), the judge shall consider fines, fees, and other
8 necessary expenses for which the defendant is obligated in
9 establishing the amount of the fee. The judge may not:

10 (1) establish the fee in an amount that is greater than
11 25 percent of the defendant's gross income while the defendant is a
12 participant in residential aftercare; or

13 (2) require the defendant to pay the fee at any time
14 other than a time at which the defendant is both employed and a
15 participant in residential aftercare.

16 SECTION 3. Section 19(f), Article 42.12, Code of Criminal
17 Procedure, is amended to read as follows:

18 (f) A community corrections and supervision department
19 shall remit fees collected under Subsection (e) of this section to
20 the comptroller not later than the last day of the month following
21 the end of the calendar quarter in which the fee is collected. The
22 comptroller shall deposit the fee in the special revenue fund to the
23 credit of the sexual assault program established under Section
24 44.0061, Health and Safety Code. If the department does not collect
25 a fee imposed under Subsection (e), the department is not required
26 to file any report required by the comptroller relating to the
27 collection of the fee.

1 SECTION 4. Section 44.901, Education Code, as amended by
2 Chapter 573, Acts of the 77th Legislature, Regular Session, 2001,
3 is amended to read as follows:

4 Sec. 44.901. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER~~
5 ~~CONSERVATION MEASURES~~]. (a) In this section, "energy savings
6 performance contract" means a contract for energy or water
7 conservation measures to reduce energy or water consumption or
8 operating costs of school facilities in which the estimated savings
9 in utility costs resulting from the measures is guaranteed to
10 offset the cost of the measures over a specified period. The term
11 includes a contract for the installation or implementation of:
12 [~~The board of trustees of a school district may enter into a~~
13 ~~contract for energy or water conservation measures to reduce energy~~
14 ~~or water consumption or operating costs of school facilities in~~
15 ~~accordance with this section.~~

16 [~~(b) A contract to which this section applies includes a~~
17 ~~contract for the installation of:~~

18 (1) insulation of a [~~the~~] building structure
19 [~~structures~~] and systems within the building;

20 (2) storm windows or doors, caulking or
21 weatherstripping, multiglazed windows or doors, heat absorbing or
22 heat reflective glazed and coated window or door systems, or other
23 window or door system modifications that reduce energy consumption;

24 (3) automatic energy control systems, including
25 computer software and technical data licenses;

26 (4) heating, ventilating, or air-conditioning system
27 modifications or replacements that reduce energy or water

1 consumption;

2 (5) lighting fixtures that increase energy
3 efficiency;

4 (6) energy recovery systems;

5 (7) electric systems improvements;

6 (8) water-conserving fixtures, appliances, and
7 equipment or the substitution of non-water-using fixtures,
8 appliances, and equipment;

9 (9) water-conserving landscape irrigation equipment;

10 (10) landscaping measures that reduce watering
11 demands and capture and hold applied water and rainfall, including:

12 (A) landscape contouring, including the use of
13 berms, swales, and terraces; and

14 (B) the use of soil amendments that increase the
15 water-holding capacity of the soil, including compost;

16 (11) rainwater harvesting equipment and equipment to
17 make use of water collected as part of a storm-water system
18 installed for water quality control;

19 (12) equipment for recycling or reuse of water
20 originating on the premises or from other sources, including
21 treated municipal effluent;

22 (13) equipment needed to capture water from
23 nonconventional, alternate sources, including air conditioning
24 condensate or graywater, for nonpotable uses;

25 (14) metering equipment needed to segregate water use
26 in order to identify water conservation opportunities or verify
27 water savings; or

1 (15) other energy or water conservation-related
2 improvements or equipment, ~~[←]~~including improvements or equipment
3 relating to renewable energy or nonconventional water sources or
4 water reuse~~[→]~~.

5 (b) The board of trustees of a school district may enter
6 into an energy savings performance contract in accordance with this
7 section.

8 (c) Each ~~[All]~~ energy or water conservation measure
9 ~~[measures]~~ must comply with current local, state, and federal
10 construction, plumbing, and environmental codes and regulations.
11 Notwithstanding ~~[anything to the contrary in]~~ Subsection (a) ~~[(b)]~~,
12 an energy savings performance ~~[a]~~ contract may ~~[for energy or water~~
13 ~~conservation measures shall]~~ not include improvements or equipment
14 that allow or cause water from any condensing, cooling, or
15 industrial process or any system of nonpotable usage over which the
16 public water supply system officials do not have sanitary control,
17 to be returned to the potable water supply.

18 (d) The ~~[person with whom the]~~ board may enter into energy
19 savings performance contracts only with persons who are ~~[must be]~~
20 experienced in the design, implementation, and installation of the
21 energy or water conservation measures addressed by the contract.

22 (e) Before entering into an energy savings performance ~~[a]~~
23 contract ~~[for energy or water conservation measures]~~, the board
24 shall require the provider of the energy or water conservation
25 measures to file with the board a payment and performance bond
26 relating to the installation of the ~~[energy or water conservation]~~
27 measures in accordance with Chapter 2253, Government Code. The

1 ~~[that is in an amount the]~~ board ~~[finds reasonable and necessary to~~
2 ~~protect the interests of the school district and that]~~ may also
3 require a separate bond to cover the value of the guaranteed savings
4 on the contract ~~[and is conditioned on the faithful execution of the~~
5 ~~terms of the contract]~~.

6 (f) An energy savings performance contract ~~[Energy or water~~
7 ~~conservation measures with respect to existing buildings or~~
8 ~~facilities]~~ may be financed:

9 (1) under a lease/purchase contract that has a term
10 not to exceed 15 years from the final date of installation and that
11 meets federal tax requirements for tax-free municipal leasing or
12 long-term financing;

13 (2) with the proceeds of bonds; or

14 (3) under a contract with the provider of the energy or
15 water conservation measures that has a term not to exceed 15 years
16 from the final date of installation.

17 (g) An energy savings performance ~~[A]~~ contract ~~[for energy~~
18 ~~or water conservation measures]~~ shall contain provisions requiring
19 ~~[pursuant to which]~~ the provider of the energy or water
20 conservation measures to guarantee ~~[guarantees]~~ the amount of the
21 savings to be realized by the school district under the contract.
22 If the term of an energy savings performance ~~[a]~~ contract ~~[for~~
23 ~~energy or water conservation measures]~~ exceeds one year, the school
24 district's contractual obligations in any one year during the term
25 of the contract beginning after the final date of installation may
26 not exceed the total energy, water, wastewater, and operating cost
27 savings, including ~~[but not limited to]~~ electrical, gas, water,

1 wastewater, or other utility cost savings and operating cost
2 savings resulting from the measures, [~~automatic monitoring and~~
3 ~~control~~] as determined by the school district in this subsection,
4 divided by the number of years in the contract term.

5 (h) An energy savings performance [A] contract shall [~~under~~
6 ~~this section may~~] be let according to the procedures established
7 for procuring certain professional services by Section 2254.004,
8 Government Code [~~under competitive proposal procedures~~]. Notice of
9 the request for qualifications [~~proposals~~] shall be published in
10 the manner provided for competitive bidding. [~~Requests for~~
11 ~~proposals must solicit quotations and must specify the relative~~
12 ~~importance of guaranteed savings, price, return on investment,~~
13 ~~financial performance and stability, quality, technical ability,~~
14 ~~experience, and other evaluation factors. The contract shall be~~
15 ~~awarded to the responsible offeror whose proposal, following~~
16 ~~negotiations, is determined to be the most advantageous to the~~
17 ~~school district considering the guaranteed savings and other~~
18 ~~evaluation factors set forth in the request for proposals.]~~

19 (i) Before [~~To obtain the best final offers, the school~~
20 ~~district may allow proposal revisions after submissions and before~~
21 ~~the award of the contract.~~

22 [~~(j) Prior to~~] entering into an energy savings performance
23 [a] contract [~~under this section~~], the board must require that the
24 cost savings projected by an offeror be reviewed by a licensed
25 professional engineer who is not an officer or employee of an
26 offeror for the contract under review or otherwise associated with
27 the contract or the offeror. An engineer who reviews a contract

1 shall maintain the confidentiality of any proprietary information
2 the engineer acquires while reviewing the contract. Sections
3 1001.053 and 1001.407, Occupations Code, apply [~~Section 19, The~~
4 ~~Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
5 ~~Statutes), applies~~] to work performed under the contract.

6 SECTION 5. Section 51.927, Education Code, as amended by
7 Chapter 573, Acts of the 77th Legislature, Regular Session, 2001,
8 is amended to read as follows:

9 Sec. 51.927. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER~~
10 ~~CONSERVATION MEASURES~~]. (a) In this section, "energy savings
11 performance contract" means a contract for energy or water
12 conservation measures to reduce energy or water consumption or
13 operating costs of institutional facilities in which the estimated
14 savings in utility costs resulting from the measures is guaranteed
15 to offset the cost of the measures over a specified period. The
16 term [~~The governing board of an institution of higher education may~~
17 ~~enter into a contract for energy or water conservation measures to~~
18 ~~reduce energy or water consumption or operating costs of~~
19 ~~institutional facilities in accordance with this section.~~

20 [~~(b) A contract to which this section applies~~] includes a
21 contract for the installation or implementation of:

22 (1) insulation of a building structure and systems
23 within a building;

24 (2) storm windows or doors, caulking or weather
25 stripping, multiglazed windows or doors, heat-absorbing or
26 heat-reflective glazed and coated window or door systems, or other
27 window or door system modifications that reduce energy consumption;

1 (3) automatic energy control systems, including
2 computer software and technical data licenses;

3 (4) heating, ventilating, or air conditioning system
4 modifications or replacements that reduce energy or water
5 consumption;

6 (5) lighting fixtures that increase energy
7 efficiency;

8 (6) energy recovery systems;

9 (7) electric systems improvements;

10 (8) water-conserving fixtures, appliances, and
11 equipment or the substitution of non-water-using fixtures,
12 appliances, and equipment;

13 (9) water-conserving landscape irrigation equipment;

14 (10) landscaping measures that reduce watering
15 demands and capture and hold applied water and rainfall, including:

16 (A) landscape contouring, including the use of
17 berms, swales, and terraces; and

18 (B) the use of soil amendments that increase the
19 water-holding capacity of the soil, including compost;

20 (11) rainwater harvesting equipment and equipment to
21 make use of water collected as part of a storm-water system
22 installed for water quality control;

23 (12) equipment for recycling or reuse of water
24 originating on the premises or from other sources, including
25 treated municipal effluent;

26 (13) equipment needed to capture water from
27 nonconventional, alternate sources, including air conditioning

1 condensate or graywater, for nonpotable uses;

2 (14) metering equipment needed to segregate water use
3 in order to identify water conservation opportunities or verify
4 water savings; or

5 (15) other energy or water conservation-related
6 improvements or equipment, [~~+~~]including improvements or equipment
7 related to renewable energy or nonconventional water sources or
8 water reuse[~~+~~].

9 (b) The governing board of an institution of higher
10 education may enter into an energy savings performance contract in
11 accordance with this section.

12 (c) Each [~~All~~] energy or water conservation measure
13 [~~measures~~] must comply with current local, state, and federal
14 construction, plumbing, and environmental codes and regulations.
15 Notwithstanding [~~anything to the contrary in~~] Subsection (a) [~~(b)~~],
16 an energy savings performance [~~a~~] contract may [~~for energy or water~~
17 ~~conservation measures shall~~] not include improvements or equipment
18 that allow or cause water from any condensing, cooling, or
19 industrial process or any system of nonpotable usage over which the
20 public water supply system officials do not have sanitary control,
21 to be returned to the potable water supply.

22 (d) The [~~entity with whom the~~] board may enter into energy
23 savings performance contracts only with entities that are [~~must be~~]
24 experienced in the design, implementation, and installation of the
25 energy or water conservation measures addressed by the contract.

26 (e) Before entering into an energy savings performance [~~a~~]
27 contract [~~for energy or water conservation measures~~], the board

1 shall require the provider of the energy or water conservation
2 measures to file with the board a payment and performance bond in
3 accordance with Chapter 2253, Government Code. The ~~[that is in an~~
4 ~~amount the]~~ board may also require a separate bond to cover the
5 value of the guaranteed savings on ~~[finds reasonable and necessary~~
6 ~~to protect the interests of the institution and is conditioned on~~
7 ~~the faithful execution of the terms of]~~ the contract.

8 (f) The board may enter into an energy savings performance
9 [a] contract for a period of more than one year only ~~[for energy or~~
10 ~~water conservation measures with an entity]~~ if the board finds that
11 the amount the institution would spend on the energy or water
12 conservation measures will not exceed the amount to be saved in
13 energy, water, wastewater, and operating costs over 15 years from
14 the date of installation. If the term of the ~~[a]~~ contract ~~[for~~
15 ~~energy or water conservation measures]~~ exceeds one year, the
16 institution's ~~[board's]~~ contractual obligation in any year during
17 the term of the contract beginning after the final date of
18 installation may not exceed the total energy, water, wastewater,
19 and operating cost savings, including ~~[but not limited to]~~
20 electrical, gas, water, wastewater, or other utility cost savings
21 and operating cost savings resulting from the measures ~~[automatic~~
22 ~~monitoring and control]~~, as determined by the board in this
23 subsection, divided by the number of years in the contract term
24 beginning after the final date of installation. The board shall
25 consider all costs of the energy or water conservation measures,
26 including costs of design, engineering, installation, maintenance,
27 repairs, and debt service.

1 (g) An energy savings performance contract [~~Energy or water~~
2 ~~conservation measures~~] may be financed:

3 (1) under a lease/purchase contract that has a term
4 not to exceed 15 years from the final date of installation and that
5 meets federal tax requirements for tax-free municipal leasing or
6 long-term financing, including a lease/purchase contract under the
7 master equipment lease purchase program administered by the Texas
8 Public Finance Authority under Chapter 1232, Government Code;

9 (2) with the proceeds of bonds; or

10 (3) under a contract with the provider of the energy or
11 water conservation measures that has a term not to exceed 15 years
12 from the final date of installation.

13 (h) An energy savings performance [A] contract [~~for energy~~
14 ~~or water conservation measures~~] shall contain provisions requiring
15 [~~pursuant to which~~] the provider of the energy or water
16 conservation measures to guarantee [~~guarantees~~] the amount of the
17 savings to be realized by the institution of higher education under
18 the contract. [~~The Master Equipment Lease Purchase Program~~
19 ~~operated by the Texas Public Finance Authority may be utilized by an~~
20 ~~institution to fund a contract for energy or water conservation~~
21 ~~measures so long as the costs of the energy or water conservation~~
22 ~~measures, including costs of design, engineering, installation,~~
23 ~~maintenance, repairs, and anticipated debt service requirements of~~
24 ~~the Master Equipment Lease Purchase Program, do not exceed the~~
25 ~~total energy and operating cost savings, as described in Subsection~~
26 ~~(f), beginning after the final date of installation.~~]

27 (i) An energy savings performance [A] contract shall [~~under~~

1 ~~this section may~~] be let according to the procedures established
2 for procuring certain professional services by Section 2254.004,
3 Government Code [~~under competitive sealed proposal procedures~~].
4 Notice of the request for qualifications [~~proposals~~] shall be given
5 in the manner provided by Section 2156.002 [~~for in Chapter 2156~~],
6 Government Code. The Texas Higher Education Coordinating Board, in
7 consultation with the State Energy Conservation Office [~~and the~~
8 ~~Texas Energy Coordination Council~~] with regard to energy and water
9 conservation measures, shall establish guidelines and an approval
10 process for awarding energy savings performance contracts [~~awarded~~
11 ~~under this section~~]. The guidelines must require that the cost
12 savings projected by an offeror be reviewed by a licensed
13 professional engineer who is not an officer or employee of an
14 offeror for the contract under review or otherwise associated with
15 the contract. An engineer who reviews a contract shall maintain the
16 confidentiality of any proprietary information the engineer
17 acquires while reviewing the contract. A contract is not required
18 to be reviewed or approved by the State Energy Conservation Office
19 [~~or Texas Energy Coordination Council~~]. Sections 1001.053 and
20 1001.407, Occupations Code, apply [~~Section 19, The Texas~~
21 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
22 ~~Statutes), applies~~] to work performed under the contract. [~~The~~
23 ~~contract shall be awarded to the responsible offeror whose~~
24 ~~proposal, following negotiations, is determined by the institution~~
25 ~~to be the most advantageous to the institution considering the~~
26 ~~guaranteed savings and other evaluation factors set forth in the~~
27 ~~request for proposals, except that if the institution finds that no~~

1 ~~offer is acceptable, it shall refuse all offers.]~~

2 (j) ~~[In accordance with regulations adopted by the~~
3 ~~institution, the institution may conduct discussions with offerors~~
4 ~~who submit proposals and who are determined to be reasonably~~
5 ~~qualified for the award of the contract. Offerors shall be treated~~
6 ~~fairly and equally with respect to any opportunity for discussion~~
7 ~~and revision of proposals. To obtain the best final offers, the~~
8 ~~institution may allow proposal revisions after submissions and~~
9 ~~before the award of the contract.]~~

10 ~~[(k) If provided in a request for proposals under Subsection~~
11 ~~(i), proposals shall be opened in a manner that avoids disclosure of~~
12 ~~the contents to competing offerors and keeps the proposals secret~~
13 ~~during negotiations. All proposals are open for public inspection~~
14 ~~after a contract is awarded unless the information is excepted from~~
15 ~~disclosure under Chapter 552, Government Code.]~~

16 ~~[(1)]~~ The legislature shall base an institution's
17 appropriation for energy, water, and wastewater costs during a
18 fiscal year on the sum of:

19 (1) the institution's estimated energy, water, and
20 wastewater costs for that fiscal year; and

21 (2) if an energy savings performance [a] contract
22 ~~[under this section]~~ is in effect, the institution's estimated net
23 savings resulting from the contract during the contract term,
24 divided by the number of years in the contract term.

25 SECTION 6. Section 54.619, Education Code, is amended by
26 adding Subsection (j) to read as follows:

27 (j) The board may suspend new enrollment in the program as

1 the board considers necessary to ensure the actuarial soundness of
2 the fund.

3 SECTION 7. Section 54.622, Education Code, is amended to
4 read as follows:

5 Sec. 54.622. TYPES OF PLANS. The board may, in its sole
6 discretion, [shall] make prepaid tuition contracts available for
7 the:

- 8 (1) junior college plan;
- 9 (2) senior college plan;
- 10 (3) junior-senior college plan; and
- 11 (4) private college plan.

12 SECTION 8. Section 54.624, Education Code, is amended to
13 read as follows:

14 Sec. 54.624. SENIOR COLLEGE PLAN. (a) Through the senior
15 college plan, a prepaid tuition contract shall provide prepaid
16 tuition and required fees for the beneficiary to attend a public
17 senior college or university for a specified number of
18 undergraduate credit hours not to exceed the typical number of
19 hours required for a baccalaureate degree awarded by a public
20 senior college or university.

21 (b) When the beneficiary of a senior college plan prepaid
22 tuition contract enrolls in a public senior college or university,
23 the university shall accept as payment in full of the beneficiary's
24 tuition and required fees the lesser of:

25 (1) the amount of tuition and required fees charged by
26 the institution; or

27 (2) an amount paid by the board under the contract

1 equal to the weighted average amount of tuition and required fees of
2 all public senior colleges and universities for that semester or
3 other academic period as determined by the board.

4 (c) Each public senior college or university shall provide
5 the information requested by the board on or before June 1 each year
6 to assist the board in determining the weighted average amount of
7 tuition and required fees of all public senior colleges and
8 universities for each semester or other academic term of the
9 following academic year for purposes of this section.

10 SECTION 9. Section 403.027(g), Government Code, is amended
11 to read as follows:

12 (g) In this section, "digital signature" means an
13 electronic identifier intended by the person using it to have the
14 same force and effect as the use of a manual signature [~~has the~~
15 ~~meaning assigned by Section 2.108(d), Business & Commerce Code~~].

16 SECTION 10. Section 403.054, Government Code, is amended by
17 amending Subsection (b) and adding Subsection (i) to read as
18 follows:

19 (b) The comptroller may not issue a replacement warrant if:

20 (1) the comptroller has paid the original warrant,
21 unless the comptroller:

22 (A) has received [~~obtained~~] a refund of the
23 payment; or

24 (B) is satisfied that the state agency on whose
25 behalf the comptroller issued the original warrant has taken
26 reasonable steps to obtain a refund of the payment;

27 (2) the period during which the comptroller may pay

1 the original warrant has expired under Section 404.046 or other
2 applicable law;

3 (3) the payee of the replacement warrant is not the
4 same as the payee of the original warrant; or

5 (4) the comptroller is prohibited by a payment law
6 [~~Section 403.055 or 481.0841, or by Section 57.48, Education Code,~~]
7 from issuing a warrant to the payee of the replacement warrant.

8 (i) In this section, "payment law" means:

9 (1) Section 403.055;

10 (2) Section 57.48, Education Code;

11 (3) Section 231.007, Family Code; or

12 (4) any similar law that prohibits the comptroller
13 from issuing a warrant or initiating an electronic funds transfer
14 to a person.

15 SECTION 11. Sections 403.092(a) and (b), Government Code,
16 are amended to read as follows:

17 (a) To allow efficient management of the cash flow of the
18 general revenue fund and to avoid a temporary cash deficiency in
19 that fund, the comptroller may transfer available [~~surplus~~] cash,
20 except constitutionally dedicated revenues, between funds that are
21 managed by or in the custody of the comptroller [~~state treasury~~].

22 As soon as practicable the comptroller shall return the available
23 [~~surplus~~] cash to the fund from which it was transferred. The
24 comptroller shall preserve the [~~fund~~] equity of the fund from which
25 the cash was transferred and shall allocate the earned [~~depository~~]
26 interest as if the transfer had not been made.

27 (b) If the comptroller submits a statement under Article

1 III, Section 49a, of the Texas Constitution when available
2 [~~surplus~~] cash transferred under Subsection (a) is in the general
3 revenue fund, the comptroller shall indicate in that statement that
4 the transferred available [~~surplus~~] cash is in the general revenue
5 fund, is a liability of that fund, and is not available for
6 appropriation by the legislature except as necessary to return cash
7 to the fund from which it was transferred as required by Subsection
8 (a).

9 SECTION 12. Sections 403.1042(b), (c), (e), and (f),
10 Government Code, are amended to read as follows:

11 (b) The advisory committee is composed of 11 members
12 appointed [~~by the advisory committee~~] as follows:

13 (1) one member appointed [~~nominated~~] by the
14 comptroller to represent a public hospital or hospital district
15 located in a county with a population of 50,000 or less or a public
16 hospital owned or maintained by a municipality;

17 (2) one member appointed [~~nominated~~] by the political
18 subdivision that, in the year preceding the appointment, received
19 the largest annual distribution paid from the account;

20 (3) one member appointed [~~nominated~~] by the political
21 subdivision that, in the year preceding the appointment, received
22 the second largest annual distribution paid from the account;

23 (4) four members appointed [~~nominated~~] by political
24 subdivisions that:

25 (A) in the year preceding the appointment,
26 received the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, or 12th
27 largest annual distribution paid from the account; and

1 (B) do not have an appointee [~~a nominee~~] serving
2 on the advisory committee at the time of appointment;

3 (5) one member appointed [~~nominated~~] by the County
4 Judges and Commissioners Association of Texas;

5 (6) one member appointed [~~nominated~~] by the North and
6 East Texas County Judges and Commissioners Association;

7 (7) one member appointed [~~nominated~~] by the South
8 Texas County Judges and Commissioners Association; and

9 (8) one member appointed [~~nominated~~] by the West Texas
10 County Judges and Commissioners Association.

11 (c) A commissioners court that sets the tax rate for a
12 hospital district must approve any person appointed [~~nominated~~] by
13 the hospital district to serve on the advisory committee.

14 (e) Except as provided by this subsection, members
15 [~~Members~~] of the advisory committee serve staggered six-year terms
16 expiring on August 31 of each odd-numbered year. A member of the
17 advisory committee whose term expires or who attempts to resign
18 from the committee remains a member of the committee until the
19 member's successor is appointed.

20 (f) An individual or entity authorized to make an
21 appointment [~~or nominate someone for appointment~~] to the advisory
22 committee created under this section shall attempt to appoint [~~or~~
23 ~~nominate~~] persons who represent the gender composition, minority
24 populations, and geographic regions of the state.

25 SECTION 13. Section 404.024, Government Code, is amended by
26 amending Subsection (b) and adding Subsection (l) to read as
27 follows:

1 (b) State funds not deposited in state depositories shall be
2 invested by the comptroller in:

3 (1) direct security repurchase agreements;

4 (2) reverse security repurchase agreements;

5 (3) direct obligations of or obligations the principal
6 and interest of which are guaranteed by the United States;

7 (4) direct obligations of or obligations guaranteed by
8 agencies or instrumentalities of the United States government;

9 (5) bankers' acceptances that:

10 (A) are eligible for purchase by the Federal
11 Reserve System;

12 (B) do not exceed 270 days to maturity; and

13 (C) are issued by a bank that has received the
14 highest short-term credit rating by a nationally recognized
15 investment rating firm;

16 (6) commercial paper that:

17 (A) does not exceed 270 days to maturity; and

18 (B) except as provided by Subsection (i), has
19 received the highest short-term credit rating by a nationally
20 recognized investment rating firm;

21 (7) contracts written by the treasury in which the
22 treasury grants the purchaser the right to purchase securities in
23 the treasury's marketable securities portfolio at a specified price
24 over a specified period and for which the treasury is paid a fee and
25 specifically prohibits naked-option or uncovered option trading;

26 (8) direct obligations of or obligations guaranteed by
27 the Inter-American Development Bank, the International Bank for

1 Reconstruction and Development (the World Bank), the African
2 Development Bank, the Asian Development Bank, and the International
3 Finance Corporation that have received the highest credit rating by
4 a nationally recognized investment rating firm;

5 (9) bonds issued, assumed, or guaranteed by the State
6 of Israel;

7 (10) obligations of a state or an agency, county,
8 city, or other political subdivision of a state;

9 (11) mutual funds secured by obligations that are
10 described by Subdivisions (1) through (6), including pooled funds:

11 (A) established by the Texas Treasury
12 Safekeeping Trust Company;

13 (B) operated like a mutual fund; and

14 (C) with portfolios consisting only of
15 dollar-denominated securities; and

16 (12) foreign currency for the sole purpose of
17 facilitating investment by state agencies that have the authority
18 to invest in foreign securities.

19 (1) The comptroller may lend securities under procedures
20 established by the comptroller. The procedures must be consistent
21 with industry practice and must include a requirement to fully
22 secure the loan with cash, obligations, or a combination of cash and
23 obligations. In this subsection, "obligation" means an item
24 described by Subsections (b)(1)-(6).

25 SECTION 14. Section 404.102, Government Code, is amended by
26 amending Subsection (a) and adding Subsection (c) to read as
27 follows:

1 (a) The comptroller may incorporate a special-purpose trust
2 company called the Texas Treasury Safekeeping Trust Company. The
3 purposes of the trust company are to provide a means for the
4 comptroller to obtain direct access to services provided by the
5 Federal Reserve System and to enable the comptroller to manage,
6 disburse, transfer, safekeep, and invest funds and securities more
7 efficiently and economically by using established and reasonable
8 financial practices, including the pooling of funds and the lending
9 of securities to the extent practical or necessary. The
10 comptroller may deposit funds and securities with the trust company
11 to achieve its purpose.

12 (c) The trust company may establish government investment
13 pools consisting of state agency funds not required to be deposited
14 in the state treasury and local government funds that are placed
15 into the pools for investment or reinvestment by the trust company.
16 A state agency or local government may place funds into the pools
17 for investment or reinvestment as authorized by Subsection (a) or
18 other law. In this subsection, "local government" and "state
19 agency" have the meanings assigned by Section 2256.002.

20 SECTION 15. Section 404.107(b), Government Code, is amended
21 to read as follows:

22 (b) A participant that has money or securities on [Agencies
23 and local political subdivisions of the state and nonprofit
24 corporations, foundations, and other charitable organizations
25 created on behalf of the state or an agency or local political
26 subdivision of the state that are authorized or required to]
27 deposit [~~money and securities~~] with the trust company shall pay the

1 fees provided in [~~established on~~] the trust company's fee schedule
2 developed under Section 404.103(f). The trust company may:

3 (1) deduct a fee from the principal or earning of a
4 participant on deposit with the trust company; or

5 (2) require a participant to pay a fee from an amount
6 not on deposit with the trust company.

7 SECTION 16. Section 404.123(b), Government Code, is amended
8 to read as follows:

9 (b) The committee may impose a limit on the sum of the total
10 amount of the notes outstanding and the total outstanding liability
11 of the general revenue fund under Section 403.092 [~~may not at any~~
12 ~~time exceed 25 percent of the taxes and revenues to be credited to~~
13 ~~the general revenue fund for the fiscal year as determined by the~~
14 ~~comptroller, based on the certification made by the comptroller in~~
15 ~~the enactment of the General Appropriations Act applicable to that~~
16 ~~fiscal year]~~.

17 SECTION 17. Chapter 447, Government Code, as amended by
18 Chapters 573, 1158, and 1398, Acts of the 77th Legislature, Regular
19 Session, 2001, is reenacted to read as follows:

20 CHAPTER 447. STATE ENERGY CONSERVATION OFFICE

21 Sec. 447.001. GOVERNANCE AND GENERAL AUTHORITY. The state
22 energy conservation office:

23 (1) is under the direction and control of the
24 comptroller;

25 (2) shall promote the policies enumerated in this
26 chapter; and

27 (3) may act in any capacity authorized by state or

1 federal law.

2 Sec. 447.002. INFORMATION; PROCEDURES AND RULES; MEASURES
3 AND PROGRAMS. (a) The state energy conservation office shall
4 develop and provide energy and water conservation information for
5 the state.

6 (b) The state energy conservation office may establish
7 procedures and adopt rules relating to the development and
8 implementation of energy and water conservation measures and
9 programs applicable to state buildings and facilities.

10 (c) A procedure established or a rule adopted under
11 Subsection (b) may include provisions relating to:

12 (1) the retrofitting of existing state buildings and
13 facilities with energy-saving or water-saving devices; and

14 (2) the energy-related or water-related renovation of
15 those buildings and facilities.

16 (d) To the extent that the governor receives money
17 appropriated for energy and water efficiency measures and programs,
18 the governor, through the state energy conservation office, shall
19 implement measures and programs that the state energy conservation
20 office identifies as encouraging energy or water conservation by
21 state government.

22 (e) A state agency shall implement an energy or water
23 conservation measure or program in accordance with plans developed
24 under Section 447.009.

25 (f) The state energy conservation office shall coordinate
26 all water conservation-related activities with the Texas Water
27 Development Board. The board shall assist the office in the

1 development of all proposed water conservation and reuse
2 requirements and provide training and expertise to the office
3 regarding water conservation issues.

4 Sec. 447.003. LIAISON TO FEDERAL GOVERNMENT. The state
5 energy conservation office is the state liaison to the federal
6 government for the implementation and administration of federal
7 programs relating to state agency energy matters. The office shall
8 administer state programs established under:

9 (1) Part D, Title III, Energy Policy and Conservation
10 Act (42 U.S.C. Section 6321 et seq.), and its subsequent
11 amendments;

12 (2) Part G, Title III, Energy Policy and Conservation
13 Act (42 U.S.C. Section 6371 et seq.), and its subsequent
14 amendments; and

15 (3) other federal energy conservation programs as
16 assigned to the office by the governor or the legislature.

17 Sec. 447.004. DESIGN STANDARDS. (a) The state energy
18 conservation office shall establish and publish mandatory energy
19 and water conservation design standards for each new state building
20 or major renovation project, including a new building or major
21 renovation project of a state-supported institution of higher
22 education. The office shall define "major renovation project" for
23 purposes of this section and shall review and update the standards
24 biennially.

25 (b) The standards established under Subsection (a) must:

26 (1) include performance and procedural standards for
27 the maximum energy and water conservation allowed by the latest and

1 most cost-effective technology that is consistent with the
2 requirements of public health, safety, and economic resources;

3 (2) be stated in terms of energy and water consumption
4 levels;

5 (3) consider the various types of building uses; and

6 (4) allow for design flexibility.

7 (c) Any procedural standard established under this section
8 must be directed toward specific design and building practices that
9 produce good thermal resistance and low infiltration and toward
10 requiring practices in the design of mechanical and electrical
11 systems that maximize energy and water efficiency. The procedural
12 standards must address, as applicable:

13 (1) insulation;

14 (2) lighting;

15 (3) ventilation;

16 (4) climate control;

17 (5) water-conserving fixtures, appliances, and
18 equipment or the substitution of non-water-using fixtures,
19 appliances, and equipment;

20 (6) water-conserving landscape irrigation equipment;

21 (7) landscaping measures that reduce watering demands
22 and capture and hold applied water and rainfall, including:

23 (A) landscape contouring, including the use of
24 berms, swales, and terraces; and

25 (B) the use of soil amendments that increase the
26 water-holding capacity of the soil, including compost;

27 (8) rainwater harvesting equipment and equipment to

1 make use of water collected as part of a storm-water system
2 installed for water quality control;

3 (9) equipment for recycling or reusing water
4 originating on the premises or from other sources, including
5 treated municipal effluent;

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

9 (11) metering equipment needed to segregate water use
10 in order to identify water conservation opportunities or verify
11 water savings;

12 (12) special energy requirements of health-related
13 facilities of higher education and state agencies; and

14 (13) any other item that the state energy conservation
15 office considers appropriate.

16 (d) A state agency or an institution of higher education
17 shall submit a copy of its design and construction manuals to the
18 state energy conservation office as the office considers necessary
19 to demonstrate compliance by the agency or institution with the
20 standards established under this section.

21 (e) A state agency or an institution of higher education may
22 not begin construction of a new state building or a major renovation
23 project before the design architect or engineer for the
24 construction or renovation has:

25 (1) certified to the agency or institution that the
26 construction or renovation complies with the standards established
27 under this section; and

1 (2) provided a copy of that certification to the state
2 energy conservation office.

3 Sec. 447.005. ENERGY AND WATER EFFICIENCY PROJECTS.
4 Subject to applicable state and federal laws or guidelines, the
5 state energy conservation office may:

6 (1) implement an energy or water efficiency project at
7 a state agency; or

8 (2) assist the agency in implementing the project
9 through an energy or water efficiency program.

10 Sec. 447.006. ADDITIONAL ENERGY AND WATER SERVICES. (a)
11 The state energy conservation office may provide additional energy
12 and water services, including:

13 (1) training of designated state employees in energy
14 and water management, energy-accounting techniques,
15 water-accounting techniques, and energy efficient and water
16 efficient design and construction;

17 (2) technical assistance regarding energy efficient
18 and water efficient capital improvements, energy efficient and
19 water efficient building design, and cogeneration and thermal
20 storage investments;

21 (3) technical assistance to the state auditor or a
22 state agency regarding energy and water management performance
23 audits and the monitoring of utility bills to detect billing
24 errors;

25 (4) technical assistance to a state agency regarding
26 third-party financing of an energy efficient and water efficient
27 capital improvement project; and

1 (5) other energy-related and water-related assistance
2 that the office considers appropriate, if the assistance is
3 requested by a state agency, an institution of higher education, a
4 consortium of institutions of higher education, or another
5 governmental entity created by state law.

6 (b) Using available state, federal, or oil overcharge
7 funds, the state energy conservation office may provide technical
8 assistance to a state agency or an institution of higher education
9 in analyzing or negotiating rates for electricity or natural gas
10 supplies from a locally certificated electric supplier, a natural
11 gas supplier, or a state-owned energy resource, including a
12 transportation charge for natural gas.

13 (c) A state agency or an institution of higher education may
14 request the assistance of the state energy conservation office
15 before negotiating or contracting for the supply or transportation
16 of natural gas or electricity.

17 (d) A state agency or an institution of higher education
18 with expertise in rate analysis, negotiation, or any other matter
19 related to the procurement of electricity and natural gas supplies
20 from a locally certificated electric supplier, a natural gas
21 supplier, or a state-owned energy resource may assist the state
22 energy conservation office whenever practicable. The attorney
23 general on request shall assist the office and other state agencies
24 and institutions of higher education in negotiating rates for
25 electricity and other terms of electric utility service.

26 (e) Using available funds from any source, the state energy
27 conservation office may assist a state agency, an institution of

1 higher education, a consortium of institutions of higher education,
2 or another governmental entity created by state law to further the
3 goals and pursue the policies of the state in energy research as may
4 be determined by the governor or the legislature. The office may
5 assist a state agency in implementing current federal energy
6 policy.

7 (f) The state energy conservation office on request may
8 negotiate rates for electricity and other terms of electric utility
9 service for a state agency or an institution of higher education.
10 The office also may negotiate the rates and the other terms of
11 service for a group of agencies or institutions in a single
12 contract.

13 (g) The state energy conservation office may analyze the
14 rates for electricity charged to and the amount of electricity used
15 by state agencies and institutions of higher education to determine
16 ways the state could obtain lower rates and use less electricity.
17 Each state agency, including the Public Utility Commission of
18 Texas, and institution of higher education shall assist the office
19 in obtaining the information the office needs to perform its
20 analysis.

21 Sec. 447.007. ENERGY AND WATER AUDITS. (a) The state
22 energy conservation office may audit a state-owned building used by
23 a state agency to assist the agency in reducing energy and water
24 consumption and costs through improved energy and water efficiency.

25 (b) Based on any audit performed under Subsection (a), the
26 state energy conservation office may recommend changes to improve
27 energy and water efficiency.

1 (c) Each state agency or institution of higher education
2 shall review and audit utility billings and contracts to detect
3 billing errors. Any contract with a private person to conduct the
4 review or audit must comply with all applicable provisions of
5 Subchapter A, Chapter 2254, regarding professional services
6 contracts. The contract may not be awarded on a contingent fee
7 basis unless the governor determines that the contract is
8 necessary, reasonable, and prudent.

9 Sec. 447.008. ENERGY-SAVING AND WATER-SAVING DEVICES OR
10 MEASURES. (a) On approval by the state energy conservation office,
11 a state agency that reduces its energy or water expenses may use any
12 funds saved by the agency from appropriated utility funds for the
13 purchase of an energy-saving or water-saving device or measure.
14 For purposes of this section, "energy-saving or water-saving device
15 or measure" means a device or measure that directly reduces:

16 (1) energy or water costs; or

17 (2) the energy or water consumption of equipment,
18 including a lighting, heating, ventilation, air-conditioning
19 system, or other water-using system, without materially altering
20 the quality of the equipment.

21 (b) A state agency, in accordance with the recommendations
22 of an energy or water audit, may purchase energy-saving and
23 water-saving devices or measures from appropriated utility funds if
24 the savings in utility funds projected by the audit will offset the
25 purchase. The agency shall retain in its files a copy of the
26 recommendation and repayment schedule as evidence of the projected
27 savings.

1 Sec. 447.009. ENERGY AND WATER MANAGEMENT PLANNING. (a)

2 The state energy conservation office shall provide energy and water
3 management planning assistance to a state agency or an institution
4 of higher education, including:

5 (1) preparation by the agency or institution of a
6 long-range plan for the delivery of reliable, cost-effective
7 utility services for the state agency or institution;

8 (2) assistance to the Department of Public Safety for
9 energy emergency contingency planning, using state or federal funds
10 when available;

11 (3) assistance to each state agency or institution of
12 higher education in preparing comprehensive energy and water
13 management plans; and

14 (4) assistance to state agencies other than
15 institutions of higher education in meeting the requirements of
16 Section 447.002, including assistance in scheduling and assigning
17 priorities to implementation plans to ensure that state agencies
18 adopt qualified cost-effective efficiency measures and programs
19 for all state facilities not later than September 1, 2006.

20 (b) A state agency or an institution of higher education
21 shall develop the plan described in Subsection (a)(1) and submit
22 the plan to the state energy conservation office upon request. The
23 agency or institution shall use the plan in preparing its five-year
24 construction and major renovation plans. After other energy-saving
25 or water-saving alternatives are considered, district heating and
26 cooling or on-site generation of electricity may be considered in
27 planning for reliable, efficient, and cost-effective utility

1 services.

2 (c) The state energy conservation office shall prepare
3 guidelines for preparation of the plan described in Subsection
4 (a)(3). A state agency or an institution of higher education that
5 occupies a state-owned building shall prepare and implement a
6 five-year energy and water management plan and shall submit that
7 plan to the office upon request. The agency or institution shall
8 update its plan biennially. A state agency or an institution of
9 higher education that occupies a building not owned by the state
10 shall cooperate with the office in addressing the energy or water
11 management of that building.

12 (d) The comprehensive energy and water management plan
13 described in Subsection (a)(3) shall be included in the five-year
14 construction and major repair and rehabilitation plans for
15 institutions of higher education as required by Section 61.0651,
16 Education Code.

17 SECTION 18. Section 659.253, Government Code, is amended to
18 read as follows:

19 Sec. 659.253. TRANSFER WITHIN AGENCY FROM EXEMPT TO
20 CLASSIFIED POSITION. (a) Except as provided by Subsection (b), a
21 [A] state employee who transfers [moves] within a state agency from
22 an exempt [a] position [exempt from the state's position
23 classification plan] to a classified position is entitled to [will]
24 receive an annual salary in the [proper] salary group to which the
25 classified position is allocated.

26 (b) During the fiscal biennium in which a state employee
27 transfers within a state agency from an exempt position to a

1 classified position, the employee's annual salary rate after the
2 transfer may not ~~[to]~~ exceed:

3 (1) the rate for the salary step equal to the rate
4 received by the employee when holding the ~~[employee's current]~~
5 exempt position ~~[salary]~~ or the rate for the next higher salary
6 step, if the classified position is allocated ~~[moving]~~ to a
7 ~~[position in a]~~ salary group that is divided into steps; or

8 (2) the rate received by the employee when holding the
9 ~~[employee's current]~~ exempt position ~~[salary]~~ or the maximum rate
10 of the ~~[new]~~ salary group to which the classified position is
11 allocated, whichever is lower, if the classified position is
12 allocated to ~~[moving to a position in]~~ a salary group that is not
13 divided into steps.

14 ~~[(b) Except as provided by this section, a state agency that~~
15 ~~at any time during a state fiscal biennium pays a state employee an~~
16 ~~exempt salary specifically established in the General~~
17 ~~Appropriations Act may not subsequently during the state fiscal~~
18 ~~biennium pay the employee a greater salary under Salary Schedule A,~~
19 ~~B, or C of the General Appropriations Act.]~~

20 (c) A merit salary increase for ~~[state agency that pays]~~ a
21 state employee who transfers to a classified position from an
22 exempt position for which the ~~[an exempt]~~ salary is specifically
23 established in the General Appropriations Act ~~[and that then~~
24 ~~transfers the employee to a position in which the employee is paid~~
25 ~~under Salary Schedule A, B, or C of the General Appropriations Act]~~
26 may not take effect if:

27 (1) the employee has spent less than ~~[grant a merit~~

1 ~~salary increase to the employee until at least] six months in the~~
2 classified position; or

3 (2) the increase would cause the salary limitation
4 prescribed by Subsection (b) to be exceeded [~~after the date that the~~
5 ~~agency begins to pay the employee under Salary Schedule A, B, or C~~
6 ~~of the General Appropriations Act]~~.

7 (d) The Legislative Budget Board and the governor together
8 may approve an exception to the salary limitations prescribed by
9 Subsection (b) [~~this section~~] for a state employee:

10 (1) on receiving the employing state agency's
11 application for the exception; and

12 (2) if the employee's job responsibilities with the
13 state agency have changed substantially during the [~~state fiscal~~]
14 biennium.

15 (e) In this section:

16 (1) "Classified position" means a position classified
17 under the state's position classification plan.

18 (2) "Exempt position" means a position exempt from the
19 state's position classification plan.

20 SECTION 19. Subchapter K, Chapter 659, Government Code, is
21 amended by adding Section 659.2531 to read as follows:

22 Sec. 659.2531. TRANSFER WITHIN AGENCY BETWEEN CLASSIFIED
23 POSITIONS ALLOCATED TO SAME SALARY GROUP. (a) In this section:

24 (1) "Classified position" means a position classified
25 under the state's position classification plan.

26 (2) "Transfer" means the transfer of a state employee
27 within a state agency between two classified positions that:

1 (A) are allocated to the same salary group; and
2 (B) have different position titles as listed in
3 the General Appropriations Act.

4 (b) Except as provided by Subsection (c), a state employee's
5 annual salary rate immediately after a transfer may not exceed:

6 (1) the rate for the salary step that is one step
7 higher than the salary step at which the employee was paid
8 immediately before the transfer, if the classified position to
9 which the employee transfers is allocated to a salary group that is
10 divided into steps; or

11 (2) 103.4 percent of the employee's annual salary rate
12 immediately before the transfer, if the classified position to
13 which the employee transfers is allocated to a salary group that is
14 not divided into steps.

15 (c) A state employee's annual salary rate immediately after
16 a transfer may not exceed the maximum rate for the appropriate
17 salary group.

18 SECTION 20. Section 659.255, Government Code, is amended to
19 read as follows:

20 Sec. 659.255. MERIT SALARY INCREASES; ONE-TIME MERIT
21 PAYMENTS. (a) In this [This] section:

22 (1) "Classified employee" means a state employee who
23 holds a classified position.

24 (2) "Classified position" means a position [applies
25 only to positions] classified under the state's position
26 classification plan.

27 (3) "Merit salary increase" means an increase in

1 compensation to:

2 (A) a higher step rate in the same classified
3 salary group, if the classified employee is compensated under
4 Salary Schedule A of the General Appropriations Act; or

5 (B) a higher rate within the range of the same
6 classified salary group, if the classified employee is compensated
7 under Salary Schedule B of the General Appropriations Act.

8 (b) [~~A state agency administrator may grant merit salary~~
9 ~~increases including one-time merit payments to employees~~
10 ~~compensated under Salary Schedules A and B of the General~~
11 ~~Appropriations Act whose job performance and productivity are~~
12 ~~consistently above that normally expected or required. For~~
13 ~~classified employees compensated under Salary Schedule A of the~~
14 ~~General Appropriations Act, a merit increase involves an increase~~
15 ~~in an employee's salary to a higher step rate in the same salary~~
16 ~~group. For classified employees compensated under Salary Schedule~~
17 ~~B of the General Appropriations Act, a merit increase involves an~~
18 ~~increase in an employee's salary to a higher rate within the range~~
19 ~~of the same salary group. Merit increases including one-time merit~~
20 ~~payments are subject to the restrictions prescribed by Subsections~~
21 ~~(c)-(e).~~

22 [~~(c)~~] The comptroller shall prescribe accounting and
23 reporting procedures as necessary to ensure the availability of
24 information reflecting each state agency's use of merit salary
25 increases, including one-time merit payments.

26 (c) Each state agency shall establish:

27 (1) a procedure for determining the eligibility of a

1 classified employee to receive a merit salary increase or a
2 one-time merit payment from the agency; and

3 (2) requirements for substantiating the eligibility
4 of a classified employee who receives a merit salary increase or a
5 one-time merit payment from the agency.

6 (d) Merit salary increases and ~~[including]~~ one-time merit
7 payments shall be applied throughout the range of classified salary
8 groups used by each state agency.

9 (e) A state agency may award a merit salary increase to a
10 classified employee in relation to the employee's performance in
11 the current classified position held by the employee if ~~[For an~~
12 ~~employee to be eligible for a merit salary increase or a one-time~~
13 ~~merit payment, the following additional criteria must be met]:~~

14 (1) the employee has ~~[must have]~~ been employed by the
15 ~~[state]~~ agency in that position for at least six continuous months
16 before ~~[prior to]~~ the effective date ~~[award]~~ of the increase ~~[or~~
17 ~~payment]~~;

18 (2) the effective date of the increase is at least six
19 months after the effective date of the employee's ~~[must have~~
20 ~~elapsed since the employee's]~~ last:

21 (A) promotion; ~~[, enhanced compensation award~~
22 ~~authorized by the General Appropriations Act, one-time merit~~
23 ~~payment,]~~ or

24 (B) merit salary increase for performance in that
25 position ~~[at the agency]; [and]~~

26 (3) the agency has complied with Subsection (c);

27 (4) the employee's job performance and productivity in

1 that position are consistently above that normally expected or
2 required; and

3 (5) the effective date of the increase is at least six
4 months after the effective date of the agency's last:

5 (A) payment to the employee of an enhanced
6 compensation award authorized by the General Appropriations Act; or

7 (B) one-time merit payment for performance in
8 that position.

9 (f) A state agency may make a one-time merit payment to a
10 classified employee in relation to the employee's performance in
11 the current classified position held by the employee if:

12 (1) the employee has been employed by the agency in
13 that position for at least six continuous months before the
14 effective date of the payment;

15 (2) the effective date of the payment is at least six
16 months after the effective date of the employee's last:

17 (A) promotion; or

18 (B) merit salary increase for performance in that
19 position;

20 (3) the agency has complied with Subsection (c);

21 (4) the employee's job performance and productivity in
22 that position are consistently above that normally expected or
23 required; and

24 (5) the effective date of the payment is at least six
25 months after the effective date of the agency's last:

26 (A) payment to the employee of an enhanced
27 compensation award authorized by the General Appropriations Act; or

1 (B) one-time merit payment for performance in
2 that position. [~~criteria for granting merit salary increases or~~
3 ~~one-time merit payments must include specific criteria and~~
4 ~~documentation to substantiate the granting of a merit increase or~~
5 ~~one-time merit payment.~~]

6 SECTION 21. Subchapter K, Chapter 659, Government Code, is
7 amended by adding Section 659.262 to read as follows:

8 Sec. 659.262. ADMINISTRATION. The comptroller may
9 establish procedures and adopt rules to administer this subchapter.

10 SECTION 22. Section 832.002, Government Code, is amended to
11 read as follows:

12 Sec. 832.002. MEMBERSHIP FEE. (a) Each member of the
13 retirement system annually shall pay the system a membership fee of
14 \$10. A contributing member shall pay the fee with the member's
15 first contribution to the retirement system in each fiscal year in
16 the manner provided by Section 835.101 for payment of the member's
17 contribution to the retirement system.

18 (b) If the membership fee is not paid with the member's
19 first contribution of the fiscal year to the retirement system, the
20 board of trustees may deduct the amount of the fee from that
21 contribution or from any benefit to which the member becomes
22 entitled.

23 SECTION 23. Sections 2101.0115(a) and (b), Government Code,
24 are amended to read as follows:

25 (a) A state agency shall submit an annual report to:

26 (1) the governor;

27 (2) ~~the comptroller,~~

1 ~~[(3)]~~ the Legislative Reference Library;

2 (3) ~~[(4)]~~ the state auditor; and

3 (4) ~~[(5)]~~ the Legislative Budget Board.

4 (b) A state agency's annual report must cover an entire
5 fiscal year. The agency shall submit the report not later than
6 December 31 of each year ~~[the date and in the form prescribed by the~~
7 ~~comptroller]~~.

8 SECTION 24. Section 2113.205(b), Government Code, is
9 amended to read as follows:

10 (b) The comptroller may authorize a [A] state agency to
11 ~~[may]~~ use money appropriated for a particular fiscal year to pay the
12 entire cost or amount of a service, including an Internet
13 connection, a periodical subscription, a maintenance contract, a
14 post office box rental, insurance, or a surety or honesty bond,
15 regardless of whether the service is provided over ~~[it covers]~~ more
16 than one fiscal year.

17 SECTION 25. Section 2162.001, Government Code, is amended
18 to read as follows:

19 Sec. 2162.001. DEFINITIONS ~~[DEFINITION]~~. In this chapter:

20 (1) "Council" ~~[, "council"]~~ means the State Council on
21 Competitive Government.

22 (2) "Local government" means a county, municipality,
23 special district, school district, junior college district, or
24 other legally constituted political subdivision of the state.

25 SECTION 26. Section 2162.102, Government Code, is amended
26 by adding Subsection (d) to read as follows:

27 (d) To the extent the council determines is feasible, a

1 local government may voluntarily participate in a contract awarded
2 by the council or a state agency under this chapter. A local
3 government that purchases a good or a service under a contract
4 awarded under this chapter is considered to have satisfied any
5 state law requiring the local government to follow a competitive
6 purchasing procedure for the purchase.

7 SECTION 27. Section 2166.406, Government Code, as amended
8 by Chapter 573, Acts of the 77th Legislature, Regular Session,
9 2001, is amended to read as follows:

10 Sec. 2166.406. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR~~
11 ~~WATER CONSERVATION MEASURES~~]. (a) In this section, "energy
12 savings performance contract" means a contract for energy or water
13 conservation measures to reduce energy or water consumption or
14 operating costs of governmental facilities in which the estimated
15 savings in utility costs resulting from the measures is guaranteed
16 to offset the cost of the measures over a specified period. The term
17 ~~[Notwithstanding any other provisions of this chapter, the~~
18 ~~governing body of a state agency, without the consent of the~~
19 ~~commission, may enter into a contract for energy conservation~~
20 ~~measures to reduce energy or water consumption or operating costs~~
21 ~~of governmental facilities in accordance with this section.~~

22 [~~(b) A contract authorized under this section~~] includes a
23 contract for the installation of:

24 (1) insulation of a [~~the~~] building structure and
25 systems within the building;

26 (2) storm windows or doors, caulking or weather
27 stripping, multiglazed windows or doors, heat absorbing or heat

1 reflective glazed and coated window or door systems, or other
2 window or door system modifications that reduce energy consumption;

3 (3) automatic energy control systems, including
4 computer software and technical data licenses;

5 (4) heating, ventilating, or air-conditioning system
6 modifications or replacements that reduce energy or water
7 consumption;

8 (5) lighting fixtures that increase energy
9 efficiency;

10 (6) energy recovery systems;

11 (7) electric systems improvements;

12 (8) water-conserving fixtures, appliances, and
13 equipment or the substitution of non-water-using fixtures,
14 appliances, and equipment;

15 (9) water-conserving landscape irrigation equipment;

16 (10) landscaping measures that reduce watering
17 demands and capture and hold applied water and rainfall, including:

18 (A) landscape contouring, including the use of
19 berms, swales, and terraces; and

20 (B) the use of soil amendments that increase the
21 water-holding capacity of the soil, including compost;

22 (11) rainwater harvesting equipment and equipment to
23 make use of water collected as part of a storm-water system
24 installed for water quality control;

25 (12) equipment for recycling or reuse of water
26 originating on the premises or from other sources, including
27 treated municipal effluent;

1 (13) equipment needed to capture water from
2 nonconventional, alternate sources, including air conditioning
3 condensate or graywater, for nonpotable uses;

4 (14) metering equipment needed to segregate water use
5 in order to identify water conservation opportunities or verify
6 water savings; or

7 (15) other energy or water conservation-related
8 improvements or equipment including improvements or equipment
9 related to renewable energy or nonconventional water sources or
10 water reuse.

11 (b) Notwithstanding any other provision of this chapter, a
12 state agency, without the consent of the commission, may enter into
13 an energy savings performance contract in accordance with this
14 section.

15 (c) Each ~~[All]~~ energy or water conservation measure
16 ~~[measures]~~ must comply with current local, state, and federal
17 construction, plumbing, and environmental codes and regulations.
18 Notwithstanding ~~[anything to the contrary in]~~ Subsection (a) ~~[(b)]~~,
19 an energy savings performance ~~[a]~~ contract may ~~[for energy or water~~
20 ~~conservation measures shall]~~ not include improvements or equipment
21 that allow or cause water from any condensing, cooling, or
22 industrial process or any system of nonpotable usage over which the
23 public water supply system officials do not have sanitary control
24 to be returned to the potable water supply.

25 (d) A state agency may enter into energy savings performance
26 ~~[The entity with whom the board]~~ contracts only with a person who is
27 ~~[must be]~~ experienced in the design, implementation, and

1 installation of the energy or water conservation measures addressed
2 by the contract.

3 (e) Before entering into an energy savings performance [~~a~~]
4 contract [~~for energy or water conservation measures~~], a [~~the~~
5 ~~governing body of the~~] state agency shall require the provider of
6 the energy or water conservation measures to file with the agency
7 [~~governing body~~] a payment and performance bond relating to the
8 installation of the measures in accordance with Chapter 2253. The
9 agency may also require a separate bond to cover the value of the
10 guaranteed savings on the contract [~~that is in an amount the~~
11 ~~governing body finds reasonable and necessary to protect the~~
12 ~~interests of the state agency and that is conditioned on the~~
13 ~~faithful execution of the terms of the contract~~].

14 (f) The state agency may enter into an energy savings
15 performance [~~a~~] contract for a period of more than one year only
16 [~~for energy or water conservation measures with an entity~~] if the
17 state agency finds that the amount the state agency would spend on
18 the energy or water conservation measures will not exceed the
19 amount to be saved in energy, water, wastewater, and operating
20 costs over 15 years from the date of installation.

21 (g) An energy savings performance contract [~~Energy or water~~
22 ~~conservation measures~~] with respect to existing buildings or
23 facilities may be financed:

24 (1) under a lease/purchase contract that has a term
25 not to exceed 15 years from the final date of installation and that
26 meets federal tax requirements for tax-free municipal leasing or
27 long-term financing, including a lease/purchase contract under the

1 master equipment lease purchase program administered by the Texas
2 Public Finance Authority under Chapter 1232;

3 (2) with the proceeds of bonds; or

4 (3) under a contract with the provider of the energy or
5 water conservation measures that has a term not to exceed 15 years
6 from the final date of installation.

7 (h) An energy savings performance [A] contract [~~for energy~~
8 ~~or water conservation measures~~] shall contain provisions requiring
9 [~~pursuant to which~~] the provider of the energy or water
10 conservation measures to guarantee [~~guarantees~~] the amount of the
11 savings to be realized by the state agency under the contract. If
12 the term of the [a] contract [~~for energy or water conservation~~
13 ~~measures~~] exceeds one year, the agency's contractual obligation,
14 including costs of design, engineering, installation, and
15 anticipated debt service, in any one year during the term of the
16 contract beginning after the final date of installation may not
17 exceed the total energy, water, wastewater, and operating cost
18 savings, including [~~but not limited to~~] electrical, gas, water,
19 wastewater, or other utility cost savings and operating cost
20 savings resulting from the measures [~~automatic monitoring and~~
21 ~~control~~], as determined by the state agency in this subsection,
22 divided by the number of years in the contract term.

23 (i) An energy savings performance [A] contract shall [~~under~~
24 ~~this section may~~] be let according to the procedures established
25 for procuring certain professional services by Section 2254.004
26 [~~under competitive sealed proposal procedures~~]. Notice of the
27 request for qualifications [~~proposals~~] shall be given in the manner

1 provided by Section 2156.002 [~~for in Chapter 2156~~]. The State
2 Energy Conservation Office shall establish guidelines and an
3 approval process for awarding energy savings performance contracts
4 [~~awarded under this section~~]. The guidelines adopted under this
5 subsection must require that the cost savings projected by an
6 offeror be reviewed by a licensed professional engineer who is not
7 an officer or employee of an offeror for the contract under review
8 or otherwise associated with the contract. An engineer who reviews
9 a contract shall maintain the confidentiality of any proprietary
10 information the engineer acquires while reviewing the contract. An
11 energy savings performance contract may not be entered into unless
12 the contract has been approved by the State Energy Conservation
13 Office. Sections 1001.053 and 1001.407, Occupations Code, apply
14 [~~Section 19, The Texas Engineering Practice Act (Article 3271a,~~
15 ~~Vernon's Texas Civil Statutes), applies] to work performed under
16 the contract. [~~The contract shall be awarded to the responsible~~
17 ~~offeror whose proposal, following negotiations, is determined to be~~
18 ~~the most advantageous to the state agency considering the savings~~
19 ~~and other evaluation factors set forth in the request for proposals~~
20 ~~except that if the state agency finds that no offer is acceptable,~~
21 ~~it shall refuse all offers.~~]~~

22 (j) [~~In accordance with regulations adopted by the state~~
23 ~~agency, the state agency may conduct discussions with offerors who~~
24 ~~submit proposals and who are determined to be reasonably qualified~~
25 ~~for the award of the contract. Offerors shall be treated fairly and~~
26 ~~equally with respect to any opportunity for discussion and revision~~
27 ~~of proposals.~~

1 ~~[(k) If provided in a request for proposals, proposals shall~~
2 ~~be opened in a manner that avoids disclosure of the contents to~~
3 ~~competing offerors and keeps the proposals secret during~~
4 ~~negotiations. All proposals are open for public inspection after a~~
5 ~~contract is awarded unless the information is excepted from~~
6 ~~disclosure under Chapter 552.~~

7 ~~[(l) To obtain the best final offers, the state agency may~~
8 ~~allow proposal revisions after submissions and before the award of~~
9 ~~a contract for energy or water conservation measures. Final review~~
10 ~~and approval of the contract will be provided by the State Energy~~
11 ~~Conservation Office.~~

12 ~~[(m)]~~ The legislature shall base an agency's appropriation
13 for energy, water, and wastewater costs during a fiscal year on the
14 sum of:

15 (1) the agency's estimated energy, water, and
16 wastewater costs for that fiscal year; and

17 (2) if an energy savings performance ~~[a]~~ contract
18 ~~[under this section]~~ is in effect, the agency's estimated net
19 savings resulting from the contract during the contract term,
20 divided by the number of years in the contract term.

21 SECTION 28. Section 2251.025(b), Government Code, is
22 amended to read as follows:

23 (b) The rate of interest that ~~[Interest]~~ accrues on an
24 overdue payment is ~~[at]~~ the rate in effect on September 1 of the
25 fiscal year in which the payment becomes overdue. The rate in
26 effect on September 1 is equal to the sum of:

27 (1) one percent; and

1 (2) the prime rate as published in the Wall Street
2 Journal on the first day of July of the preceding fiscal year that
3 does not fall on a Saturday or Sunday [~~each month~~].

4 SECTION 29. Section 2252.903(e), Government Code, is
5 amended by adding Subdivision (4) to read as follows:

6 (4) "Written contract" does not include a contract the
7 payments for which must be made through the comptroller's issuance
8 of warrants or initiation of electronic funds transfers under
9 Section 404.046, 404.069, or 2103.003.

10 SECTION 30. Section 2305.012, Government Code, is amended
11 to read as follows:

12 Sec. 2305.012. ADMINISTRATION [~~STAFF~~]; ASSISTANCE. (a)
13 The energy office shall [~~provide staff to~~] implement and administer
14 this chapter.

15 (b) The energy office or the governor through the energy
16 office may [~~also~~] enlist the assistance of a private entity or a
17 state agency, department, commission, or other entity to:

18 (1) evaluate or review a proposal;

19 (2) audit a program participant or a supervising state
20 agency;

21 (3) perform administrative duties under this chapter;

22 or

23 (4) develop eligibility or evaluation criteria.

24 SECTION 31. Section 2305.032(a), Government Code, is
25 amended to read as follows:

26 (a) The energy office under the loanstar revolving loan
27 program may [~~approve and finance projects that~~] provide loans to

1 finance energy and water efficiency measures for public facilities
2 ~~[eligible applicants for energy-saving capital improvements.~~
3 ~~Projects approved by the energy office should benefit:~~

4 ~~(1) a state agency or institution of higher~~
5 ~~education;~~

6 ~~(2) a public school;~~

7 ~~(3) a political subdivision of the state;~~

8 ~~(4) a small to medium-sized business; and~~

9 ~~(5) a public or nonprofit hospital or health care~~
10 ~~facility].~~

11 SECTION 32. Sections 2305.033(b) and (d), Government Code,
12 are amended to read as follows:

13 (b) In accordance with Part D, Title III [B], Energy Policy
14 and Conservation Act (42 U.S.C. Sec. 6321 et seq.), and its
15 subsequent amendments, the energy office, under the program, shall
16 distribute funds for projects that save measurable quantities of
17 energy.

18 (d) A proposal under Subsection (b) must:

19 (1) promote the conservation of energy; or ~~and~~

20 (2) improve the efficient use of energy through
21 activities that result in quantifiable energy savings, including:

22 (A) energy audits of buildings;

23 (B) technical assistance in reducing energy
24 bills;

25 (C) training to building operators and fiscal
26 officers on various energy issues such as utility bill analysis and
27 energy management techniques; or ~~and~~

1 (D) other technical assistance to programs for
2 which funds are appropriated.

3 SECTION 33. Section 2305.034, Government Code, is amended
4 to read as follows:

5 Sec. 2305.034. STATE AGENCIES PROGRAM. The energy office
6 is the supervising agency for the state agencies program that may
7 distribute funds through Chapter 447. Projects funded under this
8 section may include:

9 (1) energy manager training;

10 (2) energy savings performance contracting services,
11 including:

12 (A) education and training;

13 (B) contract review and approval;

14 (C) third-party contract review;

15 (D) development and dissemination of guidelines;

16 and

17 (E) identification of contract financing sources

18 [~~described by Section 51.927, Education Code~~];

19 (3) energy-efficient design assistance for new
20 facilities, including major renovation;

21 (4) projects for state building design standards
22 compliance;

23 (5) projects to create awareness of model energy codes
24 at the local and state levels;

25 (6) projects to develop and maintain the state's
26 utility database; and

27 (7) other appropriate energy and information

1 applications.

2 SECTION 34. Section 2305.039(b), Government Code, is
3 amended to read as follows:

4 (b) A project may:

5 (1) assist a service provider in providing services
6 such as:

7 (A) [~~traffic light synchronization,~~

8 [~~(B) fleet management,~~

9 [~~(C)~~] computerized transit routing that is
10 energy efficient;

11 (B) commuting solutions

12 [~~(D) car-care clinics,~~

13 [~~(E) vanpooling or ridesharing efforts]; and~~

14 (C) [~~(F)~~] public education related to mass
15 transit;

16 [~~(G) driver training in energy conservation~~
17 ~~awareness, and~~

18 [~~(H) transportation services for the elderly or~~
19 ~~persons with a disability,]~~ and

20 (2) include studies to improve existing systems and
21 plan for future transportation systems in this state.

22 SECTION 35. Section 2306.783(a), Government Code, as added
23 by Chapter 432, Acts of the 77th Legislature, Regular Session,
24 2001, is amended to read as follows:

25 (a) The Texas Interagency Council for the Homeless is
26 composed of:

27 (1) one representative from each of the following

1 agencies, appointed by the administrative head of that agency:

2 (A) the Texas Department of Health;

3 (B) the Texas Department of Human Services;

4 (C) the Texas Department of Mental Health and
5 Mental Retardation;

6 (D) the Texas Department of Criminal Justice;

7 (E) the Texas Department on Aging;

8 (F) the Texas Rehabilitation Commission;

9 (G) the Texas Education Agency;

10 (H) the Texas Commission on Alcohol and Drug
11 Abuse;

12 (I) the Department of Protective and Regulatory
13 Services;

14 (J) the Health and Human Services Commission;

15 (K) the Texas Workforce Commission;

16 (L) the Texas Youth Commission; and

17 (M) the Texas Veterans Commission;

18 (2) ~~[one representative from the office of the~~
19 ~~comptroller appointed by the comptroller;~~

20 [~~3~~] two representatives from the department, one
21 each from the community affairs division and the housing finance
22 division, appointed by the director; and

23 (3) [~~4~~] three members representing service
24 providers to the homeless, one each appointed by the governor, the
25 lieutenant governor, and the speaker of the house of
26 representatives.

27 SECTION 36. The heading to Chapter 302, Local Government

1 Code, is amended to read as follows:

2 CHAPTER 302. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER~~
3 ~~CONSERVATION MEASURES~~] FOR LOCAL GOVERNMENTS

4 SECTION 37. Section 302.001, Local Government Code, is
5 amended to read as follows:

6 Sec. 302.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

7 (1) "Energy savings performance contract" means a
8 contract for energy or water conservation measures to reduce energy
9 or water consumption or operating costs of local government
10 facilities in which the estimated savings in utility costs
11 resulting from the measures is guaranteed to offset the cost of the
12 measures over a specified period. The term includes a contract for
13 the installation or implementation of:

14 (A) insulation of a building structure and
15 systems within the building;

16 (B) storm windows or doors, caulking or weather
17 stripping, multiglazed windows or doors, heat-absorbing or
18 heat-reflective glazed and coated window or door systems, or other
19 window or door system modifications that reduce energy consumption;

20 (C) automatic energy control systems, including
21 computer software and technical data licenses;

22 (D) heating, ventilating, or air-conditioning
23 system modifications or replacements that reduce energy or water
24 consumption;

25 (E) lighting fixtures that increase energy
26 efficiency;

27 (F) energy recovery systems;

- 1 (G) electric systems improvements;
2 (H) water-conserving fixtures, appliances, and
3 equipment or the substitution of non-water-using fixtures,
4 appliances, and equipment;
5 (I) water-conserving landscape irrigation
6 equipment;
7 (J) landscaping measures that reduce watering
8 demands and capture and hold applied water and rainfall, including:
9 (i) landscape contouring, including the use
10 of berms, swales, and terraces; and
11 (ii) the use of soil amendments that
12 increase the water-holding capacity of the soil, including compost;
13 (K) rainwater harvesting equipment and equipment
14 to make use of water collected as part of a storm-water system
15 installed for water quality control;
16 (L) equipment for recycling or reuse of water
17 originating on the premises or from other sources, including
18 treated municipal effluent;
19 (M) equipment needed to capture water from
20 nonconventional, alternate sources, including air-conditioning
21 condensate or graywater, for nonpotable uses;
22 (N) metering equipment needed to segregate water
23 use in order to identify water conservation opportunities or verify
24 water savings; or
25 (O) other energy or water conservation-related
26 improvements or equipment, including improvements or equipment
27 relating to renewable energy or nonconventional water sources or

1 water reuse.

2 (2) "Local [~~,"local]~~ government" means a county,
3 municipality, or other political subdivision of this state. The
4 term [~~local government]~~ does not include a school district
5 authorized to enter into an energy savings performance [~~a]~~ contract
6 [~~for energy or water conservation measures]~~ under Section 44.901,
7 Education Code.

8 SECTION 38. Section 302.002, Local Government Code, is
9 amended to read as follows:

10 Sec. 302.002. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR~~
11 ~~WATER CONSERVATION MEASURES~~]. (a) The governing body of a local
12 government may enter into an energy savings performance [~~a]~~
13 contract [~~for energy or water conservation measures to reduce~~
14 ~~energy or water consumption or operating costs of governmental~~
15 ~~facilities]~~ in accordance with this chapter.

16 (b) Each [~~A contract authorized under this chapter includes~~
17 ~~a contract for the installation or implementation of:~~

18 [~~(1) insulation of the building structure and systems~~
19 ~~within the building;~~

20 [~~(2) storm windows or doors, caulking or weather~~
21 ~~stripping, multiglazed windows or doors, heat-absorbing or~~
22 ~~heat-reflective glazed and coated window or door systems, or other~~
23 ~~window or door system modifications that reduce energy consumption;~~

24 [~~(3) automatic energy control systems, including~~
25 ~~computer software and technical data licenses;~~

26 [~~(4) heating, ventilating, or air conditioning system~~
27 ~~modifications or replacements that reduce energy or water~~

1 consumption;

2 ~~[(5) lighting fixtures that increase energy~~

3 ~~efficiency;~~

4 ~~[(6) energy recovery systems;~~

5 ~~[(7) electric systems improvements;~~

6 ~~[(8) water-conserving fixtures, appliances, and~~

7 ~~equipment or the substitution of non-water-using fixtures,~~

8 ~~appliances, and equipment;~~

9 ~~[(9) water-conserving landscape irrigation equipment;~~

10 ~~[(10) landscaping measures that reduce watering~~

11 ~~demands and capture and hold applied water and rainfall, including:~~

12 ~~[(A) landscape contouring, including the use of~~

13 ~~berms, swales, and terraces; and~~

14 ~~[(B) the use of soil amendments that increase the~~

15 ~~water-holding capacity of the soil, including compost;~~

16 ~~[(11) rainwater harvesting equipment and equipment to~~

17 ~~make use of water collected as part of a storm-water system~~

18 ~~installed for water quality control;~~

19 ~~[(12) equipment for recycling or reuse of water~~

20 ~~originating on the premises or from other sources, including~~

21 ~~treated municipal effluent;~~

22 ~~[(13) equipment needed to capture water from~~

23 ~~nonconventional, alternate sources, including air conditioning~~

24 ~~condensate or graywater, for nonpotable uses;~~

25 ~~[(14) metering equipment needed to segregate water use~~

26 ~~in order to identify water conservation opportunities or verify~~

27 ~~water savings; or~~

1 ~~[(15) other energy or water conservation-related~~
2 ~~improvements or equipment, including improvements or equipment~~
3 ~~related to renewable energy or nonconventional water sources or~~
4 ~~water reuse.~~

5 ~~[(c) All]~~ energy or water conservation measure ~~[measures]~~
6 must comply with current local, state, and federal construction,
7 plumbing, and environmental codes and regulations.
8 Notwithstanding Section 302.001(1) ~~[anything to the contrary in~~
9 ~~Subsection (b)]~~, an energy savings performance [a] contract may
10 ~~[for energy or water conservation measures shall]~~ not include
11 improvements or equipment that allow or cause water from any
12 condensing, cooling, or industrial process or any system of
13 nonpotable usage over which public water supply system officials do
14 not have sanitary control to be returned to the potable water
15 supply.

16 SECTION 39. Section 302.003, Local Government Code, as
17 amended by Chapter 1319, Acts of the 77th Legislature, Regular
18 Session, 2001, is amended to read as follows:

19 Sec. 302.003. PAYMENT AND PERFORMANCE BOND.
20 Notwithstanding any other law ~~[to the contrary]~~, before entering
21 into an energy savings performance [a] contract ~~[for energy~~
22 ~~conservation measures]~~, the governing body of the local government
23 shall require the provider of the energy or water conservation
24 measures to file with the governing body a payment and performance
25 bond relating to the installation of the ~~[energy conservation]~~
26 measures in accordance with Chapter 2253, Government Code. The
27 governing body may also require a separate bond to cover the value

1 of the guaranteed savings on the contract.

2 SECTION 40. Section 302.004, Local Government Code, is
3 amended to read as follows:

4 Sec. 302.004. METHOD OF FINANCING; TERMS OF CONTRACT. (a)
5 An energy savings performance contract [~~Energy or water~~
6 ~~conservation measures with respect to buildings or facilities~~] may
7 be financed:

8 (1) under a lease-purchase contract that has a term
9 not to exceed 15 years from the final date of installation and that
10 meets federal tax requirements for tax-free municipal leasing or
11 long-term financing;

12 (2) with the proceeds of bonds; or

13 (3) under a contract with the provider of the energy or
14 water conservation measures that has a term not to exceed 15 years
15 from the final date of installation.

16 (b) An energy savings performance [~~The~~] contract shall
17 contain provisions requiring [~~pursuant to which~~] the provider of
18 the energy or water conservation measures to guarantee [~~guarantees~~]
19 the amount of the savings to be realized by the local government
20 under the contract. If the term of the [~~a~~] contract [~~for energy or~~
21 ~~water conservation measures~~] exceeds one year, the local
22 government's contractual obligations in any one year during the
23 term of the contract beginning after the final date of installation
24 may not exceed the total energy, water, wastewater, and operating
25 cost savings, including [~~but not limited to~~] electrical, gas,
26 water, wastewater, or other utility cost savings and operating cost
27 savings resulting from the measures as determined by the local

1 government in this subsection, divided by the number of years in the
2 contract term.

3 SECTION 41. Section 302.005, Local Government Code, as
4 amended by Chapters 573 and 1319, Acts of the 77th Legislature,
5 Regular Session, 2001, is reenacted and amended to read as follows:

6 Sec. 302.005. BIDDING PROCEDURES; AWARD OF CONTRACT. (a)
7 An energy savings performance [A] contract under this chapter may
8 be let in accordance with the procedures established for procuring
9 certain professional services by Section 2254.004, Government
10 Code. Notice of the request for qualifications shall be published
11 in the manner provided for competitive bidding.

12 (b) Before [~~(d) Prior to~~] entering into an energy savings
13 performance [a] contract [~~under this section~~], the governing body
14 must require that the cost savings projected by an offeror be
15 reviewed by a licensed [~~professional~~] engineer who is not an
16 officer or employee of an offeror for the contract under review or
17 otherwise associated with the contract or the offeror. An engineer
18 who reviews a contract shall maintain the confidentiality of any
19 proprietary information the engineer acquires while reviewing the
20 contract. Sections 1001.053 and 1001.407, Occupations Code, apply
21 [~~Section 19, The Texas Engineering Practice Act (Article 3271a,~~
22 ~~Vernon's Texas Civil Statutes), applies] to work performed under
23 the contract.~~

24 SECTION 42. Section 74.103, Property Code, is amended by
25 adding Subsection (d) to read as follows:

26 (d) The comptroller may determine the liability of a holder
27 required to file a property report under Section 74.101 using the

1 best information available to the comptroller if the records of the
2 holder are unavailable or incomplete for any portion of the
3 required retention period.

4 SECTION 43. Section 74.501, Property Code, is amended by
5 adding Subsections (d) and (e) to read as follows:

6 (d) On receipt of a claim form and all necessary
7 documentation and as may be appropriate under the circumstances,
8 the comptroller may approve the claim of:

9 (1) the reported owner of the property;

10 (2) if the reported owner died testate:

11 (A) the appropriate legal beneficiaries of the
12 owner as provided by the last will and testament of the owner that
13 has been accepted into probate or filed as a muniment of title; or

14 (B) the executor of the owner's last will and
15 testament who holds current letters testamentary;

16 (3) if the reported owner died intestate:

17 (A) the legal heirs of the owner as provided by
18 Section 38, Probate Code; or

19 (B) the court-appointed administrator of the
20 owner's estate;

21 (4) the legal heirs of the reported owner as
22 established by an affidavit of heirship order signed by a judge of
23 the county probate court or by a county judge;

24 (5) if the reported owner is a minor child or an adult
25 who has been adjudged incompetent by a court of law, the parent or
26 legal guardian of the child or adult;

27 (6) if the reported owner is a corporation:

1 (A) the president or chair of the board of
2 directors of the corporation, on behalf of the corporation; or

3 (B) any person who has legal authority to act on
4 behalf of the corporation;

5 (7) if the reported owner is a corporation that has
6 been dissolved or liquidated:

7 (A) the sole surviving shareholder of the
8 corporation, if there is only one surviving shareholder;

9 (B) the surviving shareholders of the
10 corporation in proportion to their ownership of the corporation, if
11 there is more than one surviving shareholder;

12 (C) the corporation's bankruptcy trustee; or

13 (D) the court-ordered receiver for the
14 corporation; or

15 (8) any other person that is entitled to receive the
16 unclaimed property under other law or comptroller policy.

17 (e) The comptroller may not pay to the following persons a
18 claim to which this section applies:

19 (1) a creditor, a judgment creditor, a lienholder, or
20 an assignee of the reported owner or of the owner's heirs; or

21 (2) a person holding a power of attorney from the
22 reported owner or the owner's heirs.

23 SECTION 44. Section 112.058(a), Tax Code, is amended to
24 read as follows:

25 (a) Payments [~~Except as provided in Subsections (b) and (c)~~
26 ~~of this section, payments]~~ made under protest are to be handled as
27 follows:

1 (1) An officer who receives payments made under
2 protest as required by Section 112.051 [~~of this code~~] shall each day
3 send to the comptroller the payments, a list of the persons making
4 the payments, and a written statement that the payments were made
5 under protest.

6 (2) The comptroller shall, immediately on receipt,
7 credit the payments to each fund to which the tax or fee paid under
8 protest is allocated by law.

9 (3) The comptroller shall maintain detailed records of
10 payments made under protest.

11 (4) A payment under protest bears pro rata interest.
12 The pro rata interest is the amount of interest earned by the
13 protested funds [~~that would be due if the amount had been placed in~~
14 ~~the suspense account of the comptroller~~].

15 SECTION 45. Section 256.009, Transportation Code, is
16 amended to read as follows:

17 Sec. 256.009. REPORT TO COMPTROLLER. (a) Not later than
18 January 30 of each year, the county auditor or, if the county does
19 not have a county auditor, the official having the duties of the
20 county auditor shall file a report with the comptroller that
21 includes:

22 (1) an account of how the money allocated to a county
23 under Section 256.002 during the preceding year was spent;

24 (2) a description, including location, of any new
25 roads constructed in whole or in part with the money allocated to a
26 county under Section 256.002 during the preceding year;

27 (3) any other information related to the

1 administration of Sections 256.002 and 256.003 that the comptroller
2 requires; and

3 (4) [~~stating~~] the total amount of expenditures for
4 county road and bridge construction, maintenance, rehabilitation,
5 right-of-way acquisition, and utility construction and other
6 appropriate road expenditures of county funds in the preceding
7 county fiscal year that are required by the constitution or other
8 law to be spent on public roads or highways.

9 (b) The report must be in a form prescribed by the
10 comptroller.

11 (c) [~~(b)~~] The comptroller may distribute money under
12 Section 256.002(a) to a county only if the most recent report
13 required by Subsection (a) has been filed.

14 (d) A county official or employee shall provide to the
15 comptroller on request any information necessary to determine the
16 legality of the use of money allocated under Section 256.002.

17 SECTION 46. The following are repealed:

18 (1) Section 44.901, Education Code, as amended by
19 Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001;

20 (2) Section 51.927, Education Code, as amended by
21 Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001;

22 (3) Section 395.103, Finance Code;

23 (4) Subchapters O and P, Chapter 403, Government Code;

24 (5) Section 2166.406, Government Code, as amended by
25 Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001;

26 (6) Section 2305.025, Government Code;

27 (7) Section 2305.073, Government Code;

- 1 (8) Section 2305.074, Government Code;
- 2 (9) Section 2305.076, Government Code;
- 3 (10) Section 2305.032(c), Government Code;
- 4 (11) Section 2305.033(c), Government Code;
- 5 (12) Section 302.003, Local Government Code, as
- 6 amended by Chapter 573, Acts of the 77th Legislature, Regular
- 7 Session, 2001;
- 8 (13) Sections 112.058(b) and (c), Tax Code;
- 9 (14) Sections 256.003(b) and (c), Transportation
- 10 Code; and
- 11 (15) Sections 1.02(b)-(i), Chapter 753, Acts of the
- 12 76th Legislature, Regular Session, 1999.

13 SECTION 47. (a) For the fiscal biennium beginning

14 September 1, 2003, the comptroller is appropriated from the general

15 revenue fund the amount needed to return any available cash that was

16 transferred to that fund from a fund outside the state treasury and

17 to maintain the equity of the fund from which the transfer was made,

18 as required by Section 403.092, Government Code, as amended by this

19 Act.

20 (b) The changes in law made by this Act to Sections 54.619,

21 54.622, and 54.624, Education Code, apply to each academic term or

22 semester that begins after the effective date of this Act, other

23 than a term or semester before the 2003 fall semester.

24 (c) The changes in law made by this Act to Section 403.1042,

25 Government Code, do not affect the entitlement of a member serving

26 on the tobacco settlement permanent trust account advisory

27 committee immediately before the effective date of this Act to

1 serve the remainder of the member's current term. As the terms of
2 the members of the tobacco settlement permanent trust account
3 investment advisory committee first expire after the effective date
4 of this Act, the entities authorized to appoint the committee
5 members under Section 403.1042(b), Government Code, as amended by
6 this Act, shall appoint their successors.

7 (d) Section 659.2531, Government Code, as added by this Act,
8 applies only to a transfer that takes effect on or after September
9 1, 2003. A transfer that takes effect before September 1, 2003, is
10 governed by the law in effect on the effective date of the transfer,
11 and the former law is continued in effect for that purpose. In this
12 subsection, "transfer" has the meaning assigned by Section
13 659.2531, Government Code, as added by this Act.

14 (e) The changes in law made by this Act to Section 659.255,
15 Government Code, apply only to a merit salary increase or a one-time
16 merit payment that takes effect or is made on or after September 1,
17 2003. A merit salary increase or a one-time merit payment that
18 takes effect or is made before September 1, 2003, is governed by the
19 law in effect on the date the increase takes effect or the payment
20 is made, and the former law is continued in effect for that purpose.

21 (f) The rate of interest that accrues on a payment that
22 becomes overdue on or after September 1, 2004, is the rate
23 determined under Section 2251.025(b), Government Code, as amended
24 by this Act. The rate of interest that accrues on a payment that
25 becomes overdue before September 1, 2004, is the rate determined
26 under the law in effect before July 1, 2004, and the former law is
27 continued in effect for that purpose.

1 (g) The changes in law made by this Act to Section 2252.903,
2 Government Code, apply only to a written contract that is entered
3 into on or after September 1, 2003. A written contract that is
4 entered into before September 1, 2003, is governed by the law in
5 effect on the date the contract is entered into, and the former law
6 is continued in effect for that purpose.

7 (h) The changes in law made by this Act to Section 74.103,
8 Property Code, apply only to an examination begun on or after
9 September 1, 2003. An examination begun before September 1, 2003,
10 is governed by the law in effect on the date the examination begins,
11 and the former law is continued in effect for that purpose.

12 SECTION 48. (a) Except as provided by this section, this
13 Act takes effect immediately if it receives a vote of two-thirds of
14 all the members elected to each house, as provided by Section 39,
15 Article III, Texas Constitution. If this Act does not receive the
16 vote necessary for immediate effect, this Act takes effect
17 September 1, 2003.

18 (b) The amendments by this Act to the following sections
19 take effect September 1, 2003:

20 (1) Section 14(e), Article 42.12, Code of Criminal
21 Procedure, as added by Chapter 1188, Acts of the 76th Legislature,
22 Regular Session, 1999;

23 (2) Section 19(f), Article 42.12, Code of Criminal
24 Procedure;

25 (3) Section 659.253, Government Code;

26 (4) Section 659.255, Government Code;

27 (5) Sections 2101.0115(a) and (b), Government Code;

- 1 (6) Section 2113.205(b), Government Code;
- 2 (7) Section 2252.903(e), Government Code;
- 3 (8) Section 74.103, Property Code;
- 4 (9) Section 74.501, Property Code;
- 5 (10) Section 112.058(a), Tax Code; and
- 6 (11) Section 256.009, Transportation Code.

7 (c) The amendment by this Act to Section 2251.025(b),
8 Government Code, takes effect July 1, 2004.

9 (d) The repeal by this Act of Section 395.103, Finance Code,
10 and Sections 112.058(b) and (c), Tax Code, takes effect September
11 1, 2003.

12 (e) Sections 659.2531 and 659.262, Government Code, as
13 added by this Act, take effect September 1, 2003.