

By: Duncan

S.B. No. 1371

A BILL TO BE ENTITLED

AN ACT

relating to state fiscal matters; making an appropriation.

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

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

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

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

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

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

(4) a certification of the claimant's actual innocence of the crime for which the claimant was sentenced, which must be signed by the current prosecuting attorney of the county in which that sentence was rendered.

SECTION 2. Section 14(e), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(e) The clerk of a court that collects a fee under Subsection (c)(2) shall remit the fee to the comptroller not later than the last day of the month following the end of each calendar quarter in which the fee was collected, and the comptroller shall

1 deposit the fee into the general revenue fund. If no fee has been
2 collected, no report need be filed. In requiring the payment of a
3 fee under Subsection (c)(2), the judge shall consider fines, fees,
4 and other necessary expenses for which the defendant is obligated
5 in establishing the amount of the fee. The judge may not:

6 (1) establish the fee in an amount that is greater than
7 25 percent of the defendant's gross income while the defendant is a
8 participant in residential aftercare; or

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

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

14 (f) A community corrections and supervision department
15 shall remit fees collected under Subsection (e) [~~of this section~~]
16 to the comptroller not later than the last day of the month
17 following the end of each calendar quarter in which the fee was
18 collected. The comptroller shall deposit the fee in the special
19 revenue fund to the credit of the sexual assault program
20 established under Section 44.0061, Health and Safety Code. If no
21 fee has been collected, no report need be filed.

22 SECTION 4. Subchapter Z, Chapter 44, Education Code, is
23 amended by adding Section 44.9011 to read as follows:

24 Sec. 44.9011. ENERGY SAVINGS PERFORMANCE CONTRACTS. (a)
25 In this section, "energy savings performance contract" means a
26 contract for energy or water conservation measures to reduce energy
27 or water consumption or operating costs of school facilities in

1 which the estimated savings in utility costs resulting from the
2 measures is guaranteed to offset their cost over a specified time
3 period. The term includes a contract for the installation or
4 implementation of:

5 (1) insulation of a building structure and systems
6 within the building;

7 (2) storm windows or doors, caulking or weather
8 stripping, multiglazed windows or doors, heat absorbing or heat
9 reflective glazed and coated window or door systems, or other
10 window or door system modifications that reduce energy consumption;

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

13 (4) heating, ventilating, or air conditioning system
14 modifications or replacements that reduce energy or water
15 consumption;

16 (5) lighting fixtures that increase energy
17 efficiency;

18 (6) energy recovery systems;

19 (7) electric systems improvements;

20 (8) water-conserving fixtures, appliances, and
21 equipment or the substitution of non-water-using fixtures,
22 appliances, and equipment;

23 (9) water-conserving landscape irrigation equipment;

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

26 (A) landscape contouring, including the use of
27 berms, swales, and terraces; and

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

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

6 (12) equipment for recycling or reuse of water
7 originating on the premises or from other sources, including
8 treated municipal effluent;

9 (13) equipment needed to capture water from
10 nonconventional, alternate sources, including air conditioning
11 condensate or graywater, for nonpotable uses;

12 (14) metering equipment needed to segregate water use
13 in order to identify water conservation opportunities or verify
14 water savings; or

15 (15) other energy or water conservation-related
16 improvements or equipment, including improvements or equipment
17 relating to renewable energy or nonconventional water sources or
18 water reuse.

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

22 (c) Each energy or water conservation measure must comply
23 with current local, state, and federal construction, plumbing, and
24 environmental codes and regulations. Notwithstanding Subsection
25 (a), an energy savings performance contract may not include
26 improvements or equipment that allow or cause water from any
27 condensing, cooling, or industrial process or any system of

1 nonpotable usage over which public water supply system officials do
2 not have sanitary control, to be returned to the potable water
3 supply.

4 (d) The board of trustees of a school district may enter
5 into an energy savings performance contract only with a person who
6 is experienced in the design, implementation, and installation of
7 the energy or water conservation measures addressed by the
8 contract.

9 (e) Before entering into an energy savings performance
10 contract, the board of trustees of a school district must require
11 the provider of the energy or water conservation measures to file
12 with the board a payment and performance bond relating to the
13 installation of the measures in accordance with Chapter 2253,
14 Government Code. The board also may require a separate bond to
15 cover the value of the guaranteed savings on the contract.

16 (f) An energy savings performance contract may be financed:

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

21 (2) with the proceeds of bonds; or

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

25 (g) An energy savings performance contract must require the
26 provider of the energy or water conservation measures to guarantee
27 the amount of savings to be realized by the school district under

1 the contract. If the term of the contract exceeds one year, then
2 the school district's contractual obligations in any one year
3 during the term of the contract beginning after the final date of
4 installation may not exceed the total energy, water, wastewater,
5 and operating cost savings, including electrical, gas, water,
6 wastewater, or other utility cost savings and operating cost
7 savings resulting from the measures as determined by the school
8 district in this subsection, divided by the number of years in the
9 contract term.

10 (h) An energy savings performance contract must be let
11 according to the procedures established for professional services
12 by Section 2254.004, Government Code. Notice of the request for
13 qualifications shall be published in the manner provided for
14 competitive bidding.

15 (i) Before entering into an energy savings performance
16 contract, the board of trustees of a school district must require
17 that the cost savings projected by an offeror be reviewed by a
18 licensed engineer who is not an officer or employee of an offeror
19 for the contract under review or otherwise associated with the
20 contract or the offeror. An engineer who reviews a contract shall
21 maintain the confidentiality of any proprietary information the
22 engineer acquires while reviewing the contract. Sections 1001.053
23 and 1001.407, Occupations Code, apply to work performed under the
24 contract.

25 SECTION 5. Subchapter Z, Chapter 51, Education Code, is
26 amended by adding Section 51.9271 to read as follows:

27 Sec. 51.9271. ENERGY SAVINGS PERFORMANCE CONTRACTS. (a)

1 In this section, "energy savings performance contract" means a
2 contract for energy or water conservation measures to reduce energy
3 or water consumption or operating costs of institutional facilities
4 in which the estimated savings in utility costs resulting from the
5 measures is guaranteed to offset their cost over a specified time
6 period. The term includes a contract for the installation or
7 implementation of:

8 (1) insulation of a building structure and systems
9 within the building;

10 (2) storm windows or doors, caulking or weather
11 stripping, multiglazed windows or doors, heat absorbing or heat
12 reflective glazed and coated window or door systems, or other
13 window or door system modifications that reduce energy consumption;

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

16 (4) heating, ventilating, or air conditioning system
17 modifications or replacements that reduce energy or water
18 consumption;

19 (5) lighting fixtures that increase energy
20 efficiency;

21 (6) energy recovery systems;

22 (7) electric systems improvements;

23 (8) water-conserving fixtures, appliances, and
24 equipment or the substitution of non-water-using fixtures,
25 appliances, and equipment;

26 (9) water-conserving landscape irrigation equipment;

27 (10) landscaping measures that reduce watering

1 demands and capture and hold applied water and rainfall, including:

2 (A) landscape contouring, including the use of
3 berms, swales, and terraces; and

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

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

9 (12) equipment for recycling or reuse of water
10 originating on the premises or from other sources, including
11 treated municipal effluent;

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

15 (14) metering equipment needed to segregate water use
16 in order to identify water conservation opportunities or verify
17 water savings; or

18 (15) other energy or water conservation-related
19 improvements or equipment, including improvements or equipment
20 related to renewable energy or nonconventional water sources or
21 water reuse.

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

25 (c) Each energy or water conservation measure must comply
26 with current local, state, and federal construction, plumbing, and
27 environmental codes and regulations. Notwithstanding Subsection

1 (a), an energy savings performance contract may not include
2 improvements or equipment that allow or cause water from any
3 condensing, cooling, or industrial process or any system of
4 nonpotable usage over which public water supply system officials do
5 not have sanitary control, to be returned to the potable water
6 supply.

7 (d) The governing board of an institution of higher
8 education may enter into an energy savings performance contract
9 only with a person who is experienced in the design,
10 implementation, and installation of the energy or water
11 conservation measures addressed by the contract.

12 (e) Before entering into an energy savings performance
13 contract, the governing board of an institution of higher education
14 must require the provider of the energy or water conservation
15 measures to file with the board a payment and performance bond in
16 accordance with Chapter 2253, Government Code. The board also may
17 require a separate bond to cover the value of the guaranteed savings
18 on the contract.

19 (f) The governing board of an institution of higher
20 education may enter into an energy savings performance contract for
21 a period of more than one year only if the board finds that the
22 amount the institution would spend on the energy or water
23 conservation measures will not exceed the amount to be saved in
24 energy, water, wastewater, and operating costs over 15 years from
25 the date of installation. If the term of the contract exceeds one
26 year, then the institution's contractual obligations in any year
27 during the term of the contract beginning after the final date of

1 installation may not exceed the total energy, water, wastewater,
2 and operating cost savings, including electrical, gas, water,
3 wastewater, or other utility cost savings and operating cost
4 savings resulting from the measures, as determined by the board in
5 this subsection, divided by the number of years in the contract term
6 beginning after the final date of installation. The board shall
7 consider all costs of the energy or water conservation measures,
8 including costs of design, engineering, installation, maintenance,
9 repairs, and debt service.

10 (g) An energy savings performance contract may be financed:

11 (1) under a lease-purchase contract that has a term
12 not to exceed 15 years from the final date of installation and that
13 meets federal tax requirements for tax-free municipal leasing or
14 long-term financing, including a lease-purchase contract under the
15 master equipment lease purchase program administered by the Texas
16 Public Finance Authority under Chapter 1232;

17 (2) with the proceeds of bonds; or

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

21 (h) An energy savings performance contract must require the
22 provider of the energy or water conservation measures to guarantee
23 the amount of the savings to be realized by the institution of
24 higher education under the contract.

25 (i) An energy savings performance contract must be let
26 according to the procedures established for professional services
27 by Section 2254.004, Government Code. Notice of the request for

1 qualifications shall be given in the manner provided by Section
2 2156.002, Government Code. The Texas Higher Education Coordinating
3 Board, in consultation with the state energy conservation office
4 with regard to energy and water conservation measures, shall
5 establish guidelines and an approval process for awarding energy
6 savings performance contracts. The guidelines must require that
7 the cost savings projected by an offeror be reviewed by a licensed
8 engineer who is not an officer or employee of an offeror for the
9 contract under review or otherwise associated with the contract.
10 An engineer who reviews a contract shall maintain the
11 confidentiality of any proprietary information the engineer
12 acquires while reviewing the contract. A contract is not required
13 to be reviewed or approved by the state energy conservation office.
14 Sections 1001.053 and 1001.407, Occupations Code, apply to work
15 performed under the contract.

16 (j) 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 contract is in
22 effect, the institution's estimated net savings resulting from the
23 contract during the contract term, divided by the number of years in
24 the contract term.

25 SECTION 6. Section 403.020, Government Code, is amended to
26 read as follows:

27 Sec. 403.020. PERFORMANCE REVIEW OF SCHOOL DISTRICTS AND

1 INSTITUTIONS OF HIGHER EDUCATION. (a) The comptroller may
2 periodically review the effectiveness and efficiency of the budget
3 [~~budgets~~] and operations of a school district [~~districts~~] or an
4 institution of higher education.

5 (b) By a majority vote of its members, the board of trustees
6 [~~A review~~] of a school district or the governing board of an
7 institution of higher education may request [~~be initiated by~~] the
8 comptroller [~~or by the request of~~] to review the [~~school~~] district
9 or institution. The comptroller may review the district or
10 institution without receiving a request for the review. [~~A review~~
11 ~~may be initiated by a school district only by resolution adopted by~~
12 ~~a majority of the members of the board of trustees of the district.~~]

13 (c) [~~(b)~~] The comptroller may require a [~~If a review is~~
14 ~~initiated by the school district, the~~] school district or an
15 institution of higher education to [~~shall~~] pay a maximum of 25
16 percent of the cost incurred in conducting a [~~the~~] review under this
17 section if the district or institution requested the review.

18 (d) [~~(c)~~] The comptroller shall:

19 (1) prepare a report showing the results of each
20 review conducted under this section;

21 (2) file the report with:

22 (A) the commissioner of education, if a school
23 district was reviewed; or

24 (B) the commissioner of higher education, if an
25 institution of higher education was reviewed;

26 (3) [~~(2)~~] file the report with the [~~school~~] district
27 or institution reviewed, the governor, the lieutenant governor, the

1 speaker of the house of representatives, and the chairs of the
2 standing committees of the senate and of the house of
3 representatives with jurisdiction over public education[~~, and the~~
4 ~~commissioner of education~~]; and

5 (4) [~~(3)~~] make the entire report and a summary of the
6 report available to the public on the Internet.

7 (e) In this section, "governing board" and "institution of
8 higher education" have the meanings assigned by Section 61.003,
9 Education Code.

10 SECTION 7. 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 8. 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 original warrant was issued has taken reasonable steps
26 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) a payment law prohibits the comptroller [~~is~~
6 ~~prohibited by Section 403.055 or 481.0841, or by Section 57.48,~~
7 ~~Education Code,~~] from issuing a warrant to the payee of the
8 replacement warrant.

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

10 (1) Section 403.055;

11 (2) Section 57.48, Education Code;

12 (3) Section 231.007, Family Code; or

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

16 SECTION 9. Subsections (a) and (b), Section 403.092,
17 Government Code, are amended to read as follows:

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

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

1 (b) If the comptroller submits a statement under Article
2 III, Section 49a, of the Texas Constitution when available
3 [~~surplus~~] cash transferred under Subsection (a) is in the general
4 revenue fund, the comptroller shall indicate in that statement that
5 the transferred available [~~surplus~~] cash is in the general revenue
6 fund, is a liability of that fund, and is not available for
7 appropriation by the legislature.

8 SECTION 10. Section 404.024, Government Code, is amended by
9 amending Subsection (b) and adding Subsection (1) to read as
10 follows:

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

13 (1) direct security repurchase agreements;
14 (2) reverse security repurchase agreements;
15 (3) direct obligations of or obligations the principal
16 and interest of which are guaranteed by the United States;

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

19 (5) bankers' acceptances that:
20 (A) are eligible for purchase by the Federal
21 Reserve System;

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

23 (C) are issued by a bank that has received the
24 highest short-term credit rating by a nationally recognized
25 investment rating firm;

26 (6) commercial paper that:

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

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

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

9 (8) direct obligations of or obligations guaranteed by
10 the Inter-American Development Bank, the International Bank for
11 Reconstruction and Development (the World Bank), the African
12 Development Bank, the Asian Development Bank, and the International
13 Finance Corporation that have received the highest credit rating by
14 a nationally recognized investment rating firm;

15 (9) bonds issued, assumed, or guaranteed by the State
16 of Israel;

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

19 (11) mutual funds secured by obligations that are
20 described by Subdivisions (1) through (6), including pooled funds
21 established by the Texas Treasury Safekeeping Trust Company and
22 operated like a mutual fund and whose portfolios consist only of
23 dollar-denominated securities; and

24 (12) foreign currency for the sole purpose of
25 facilitating investment by state agencies that have the authority
26 to invest in foreign securities.

27 (1) The comptroller may lend securities under procedures

1 established by the comptroller. The procedures must be consistent
2 with industry practice and must include a requirement to fully
3 secure the loan with cash, obligations, or a combination of cash and
4 obligations. In this subsection, "obligation" means an item
5 described in Subsection (b)(1)-(6).

6 SECTION 11. Section 404.102, Government Code, is amended to
7 read as follows:

8 Sec. 404.102. CREATION OF TRUST COMPANY. (a) The
9 comptroller may incorporate a special purpose trust company called
10 the Texas Treasury Safekeeping Trust Company. The purposes of the
11 trust company are to provide a means for the comptroller to obtain
12 direct access to services provided by the Federal Reserve System
13 and to enable the comptroller to manage, disburse, transfer,
14 safekeep, and invest funds and securities more efficiently and
15 economically by utilizing established and reasonable financial
16 practices, including the pooling of funds and the lending of
17 securities to the extent practical or necessary. The comptroller
18 may deposit funds and securities with the trust company to achieve
19 its purpose.

20 (b) The trust company may establish government investment
21 pools, consisting of state agency funds not required to be
22 deposited in the state treasury and local government funds that are
23 placed into the pools for investment or reinvestment by the trust
24 company. A state agency or local government may place funds into
25 the pools for investment or reinvestment as authorized by
26 Subsection (a) or other law. In this subsection, "local
27 government" and "state agency" have the meanings assigned by

1 Section 2256.002.

2 (c) The trust company is a special-purpose trust company
3 with necessary and implied powers to accomplish its purpose and is
4 subject to regulation only as provided by this subchapter. The
5 trust company may not engage in commercial banking activity.

6 SECTION 12. Section 404.123(b), Government Code, is amended
7 to read as follows:

8 (b) The committee may impose a limit on the sum of:

9 (1) the total amount of the notes outstanding; and

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

16 SECTION 13. Chapter 447, Government Code, as amended by
17 Chapters 573, 1158, and 1398, 77th Legislature, Regular Session,
18 2001, is reenacted to read as follows:

19 CHAPTER 447. STATE ENERGY CONSERVATION OFFICE.

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

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

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

26 (3) may act in any capacity authorized by state or
27 federal law.

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

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

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

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

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

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

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

23 (f) The state energy conservation office shall coordinate
24 all water conservation-related activities with the Texas Water
25 Development Board. The board shall assist the office in the
26 development of all proposed water conservation and reuse
27 requirements and provide training and expertise to the office

1 regarding water conservation issues.

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

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

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

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

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

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

22 (1) include performance and procedural standards for
23 the maximum energy and water conservation allowed by the latest and
24 most cost-effective technology that is consistent with the
25 requirements of public health, safety, and economic resources;

26 (2) be stated in terms of energy and water consumption
27 levels;

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

2 (4) allow for design flexibility.

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

9 (1) insulation;

10 (2) lighting;

11 (3) ventilation;

12 (4) climate control;

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

16 (6) water-conserving landscape irrigation equipment;

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

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

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

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

26 (9) equipment for recycling or reusing water
27 originating on the premises or from other sources, including

1 treated municipal effluent;

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

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

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

10 (13) any other item that the state energy conservation
11 office considers appropriate.

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

17 (e) A state agency or an institution of higher education may
18 not begin construction of a new state building or a major renovation
19 project before the design architect or engineer for the
20 construction or renovation has:

21 (1) certified to the agency or institution that the
22 construction or renovation complies with the standards established
23 under this section; and

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

26 Sec. 447.005. ENERGY AND WATER EFFICIENCY PROJECTS.
27 Subject to applicable state and federal laws or guidelines, the

1 state energy conservation office may:

2 (1) implement an energy or water efficiency project at
3 a state agency; or

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

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

9 (1) training of designated state employees in energy
10 and water management, energy-accounting techniques,
11 water-accounting techniques, and energy efficient and water
12 efficient design and construction;

13 (2) technical assistance regarding energy efficient
14 and water efficient capital improvements, energy efficient and
15 water efficient building design, and cogeneration and thermal
16 storage investments;

17 (3) technical assistance to the state auditor or a
18 state agency regarding energy and water management performance
19 audits and the monitoring of utility bills to detect billing
20 errors;

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

24 (5) other energy-related and water-related assistance
25 that the office considers appropriate, if the assistance is
26 requested by a state agency, an institution of higher education, a
27 consortium of institutions of higher education, or another

1 governmental entity created by state law.

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

9 (c) A state agency or an institution of higher education may
10 request the assistance of the state energy conservation office
11 before negotiating or contracting for the supply or transportation
12 of natural gas or electricity.

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

22 (e) Using available funds from any source, the state energy
23 conservation office may assist a state agency, an institution of
24 higher education, a consortium of institutions of higher education,
25 or another governmental entity created by state law to further the
26 goals and pursue the policies of the state in energy research as may
27 be determined by the governor or the legislature. The office may

1 assist a state agency in implementing current federal energy
2 policy.

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

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

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

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

24 (c) Each state agency or institution of higher education
25 shall review and audit utility billings and contracts to detect
26 billing errors. Any contract with a private person to conduct the
27 review or audit must comply with all applicable provisions of

1 Subchapter A, Chapter 2254, regarding professional services
2 contracts. The contract may not be awarded on a contingent fee
3 basis unless the governor determines that the contract is
4 necessary, reasonable, and prudent.

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

- 12 (1) energy or water costs; or
13 (2) the energy or water consumption of equipment,
14 including a lighting, heating, ventilation, air conditioning
15 system, or other water using system, without materially altering
16 the quality of the equipment.

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

24 Sec. 447.009. ENERGY AND WATER MANAGEMENT PLANNING. (a)
25 The state energy conservation office shall provide energy and water
26 management planning assistance to a state agency or an institution
27 of higher education, including:

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

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

7 (3) assistance to each state agency or institution of
8 higher education in preparing comprehensive energy and water
9 management plans; and

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

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

25 (c) The state energy conservation office shall prepare
26 guidelines for preparation of the plan described in Subsection
27 (a)(3). A state agency or an institution of higher education that

1 occupies a state-owned building shall prepare and implement a
2 five-year energy and water management plan and shall submit that
3 plan to the office upon request. The agency or institution shall
4 update its plan biennially. A state agency or an institution of
5 higher education that occupies a building not owned by the state
6 shall cooperate with the office in addressing the energy or water
7 management of that building.

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

13 SECTION 14. Section 659.253, Government Code, is amended to
14 read as follows:

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

22 (b) During the fiscal biennium in which a state employee
23 transfers within a state agency from an exempt position to a
24 classified position, the employee's annual salary rate after the
25 transfer may not [to] exceed:

26 (1) the rate for the salary step equal to the rate
27 received by the employee when holding the [employee's current]

1 exempt position [~~salary~~] or the rate for the next higher salary
2 step, if the classified position is allocated to [~~moving to a~~
3 ~~position in~~] a salary group that is divided into steps; or

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

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

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

23 (1) the employee has spent [~~grant a merit salary~~
24 ~~increase to the employee until at least~~] less than six months in the
25 classified position [~~after the date that the agency begins to pay~~
26 ~~the employee under Salary Schedule A, B, or C of the General~~
27 ~~Appropriations Act~~]; or

1 (2) the increase would cause the salary limitation
2 specified in Subsection (b) to be exceeded.

3 (d) The Legislative Budget Board and the governor together
4 may approve an exception to the salary limitation specified in
5 [limitations prescribed by] Subsection (b) [this section] for a
6 state employee:

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

9 (2) if the employee's job responsibilities with the
10 [state] agency have changed substantially during the [state fiscal]
11 biennium.

12 (e) In this section:

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

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

17 SECTION 15. (a) Subchapter K, Chapter 659, Government Code,
18 is amended by adding Section 659.2531 to read as follows:

19 Sec. 659.2531. TRANSFER WITHIN AGENCY AMONG CLASSIFIED
20 POSITIONS ALLOCATED TO SAME SALARY GROUP. (a) In this section:

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

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

25 (A) are allocated to the same salary group; and

26 (B) have different position titles as listed in
27 the General Appropriations Act.

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

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

8 (2) 103.4 percent of the employee's annual salary rate
9 immediately before the transfer, if the classified position to
10 which the employee transfers is allocated to a salary group that is
11 not divided into steps.

12 (c) A state employee's annual salary rate immediately after
13 a transfer may not exceed the maximum rate of the appropriate salary
14 group.

15 (b) The changes in law made by Subsection (a) of this
16 section apply only to a transfer that takes effect on or after the
17 effective date of that subsection. A transfer that takes effect
18 before the effective date of that subsection is governed by the law
19 in effect on the effective date of the transfer, and the prior law
20 is continued in effect for that purpose. In this subsection:

21 (1) "Classified position" has the meaning assigned by
22 Section 659.2531, Government Code, as added by Subsection (a) of
23 this section.

24 (2) "State agency" has the meaning assigned by Section
25 659.252, Government Code.

26 (3) "Transfer" has the meaning assigned by Section
27 659.2531, Government Code, as added by Subsection (a) of this

1 section.

2 SECTION 16. (a) Section 659.255, Government Code, is
3 amended to read as follows:

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

6 (1) "Classified employee" means a state employee who
7 holds a classified position.

8 (2) "Classified position" means [applies only to] a
9 position [positions] classified under the state's position
10 classification plan.

11 (3) "Merit salary increase" means an increase in
12 compensation to:

13 (A) a higher step rate in the same classified
14 salary group, if the compensation is determined under Salary
15 Schedule A of the General Appropriations Act; or

16 (B) a higher rate within the range of the same
17 classified salary group, if the compensation is determined under
18 Salary Schedule B of the General Appropriations Act.

19 (b) ~~[A state agency administrator may grant merit salary~~
20 ~~increases including one-time merit payments to employees~~
21 ~~compensated under Salary Schedules A and B of the General~~
22 ~~Appropriations Act whose job performance and productivity are~~
23 ~~consistently above that normally expected or required. For~~
24 ~~classified employees compensated under Salary Schedule A of the~~
25 ~~General Appropriations Act, a merit increase involves an increase~~
26 ~~in an employee's salary to a higher step rate in the same salary~~
27 ~~group. For classified employees compensated under Salary Schedule~~

1 ~~B of the General Appropriations Act, a merit increase involves an~~
2 ~~increase in an employee's salary to a higher rate within the range~~
3 ~~of the same salary group. Merit increases including one-time merit~~
4 ~~payments are subject to the restrictions prescribed by Subsections~~
5 ~~(c)-(e).]~~

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

10 (c) Each state agency shall establish:

11 (1) criteria for determining the eligibility of a
12 classified employee to receive a merit salary increase or a
13 one-time merit payment from the agency; and

14 (2) requirements for substantiating the eligibility
15 of each classified employee who receives a merit salary increase or
16 one-time merit payment from the agency.

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

20 (e) A state agency may award a merit salary increase to a
21 state employee with respect to a particular classified position
22 held by the employee if ~~[For an employee to be eligible for a merit~~
23 ~~salary increase or a one-time merit payment, the following~~
24 ~~additional criteria must be met]~~:

25 (1) the employee's job performance and productivity in
26 that position are consistently above that normally expected or
27 required;

1 (2) [(1)] the employee has ~~[must have]~~ been employed
2 by the ~~[state]~~ agency in that position for at least six continuous
3 months before ~~[prior to]~~ the effective date ~~[award]~~ of the increase
4 ~~[or payment]~~;

5 (3) [(2)] the effective date of the increase is at
6 least six months ~~[must have elapsed since]~~ after the effective date
7 of the employee's last promotion ~~[, enhanced compensation award~~
8 ~~authorized by the General Appropriations Act, one-time merit~~
9 ~~payment,~~ or merit salary increase relating to that position ~~[at~~
10 ~~the agency]~~;

11 (4) the effective date of the increase is at least six
12 months after the date of the agency's last payment to the employee
13 of an enhanced compensation award authorized by the General
14 Appropriations Act or a one-time merit payment relating to that
15 position; and

16 (5) [(3)] the agency has complied with Subsection (c)
17 ~~[agency criteria for granting merit salary increases or one-time~~
18 ~~merit payments must include specific criteria and documentation to~~
19 ~~substantiate the granting of a merit increase or one-time merit~~
20 ~~payment].~~

21 (f) A state agency may make a one-time merit payment to a
22 state employee with respect to a particular classified position
23 held by the employee if:

24 (1) the employee's job performance and productivity in
25 that position are consistently above that normally expected or
26 required;

27 (2) the employee has been employed by the agency in

1 that position for at least six continuous months before the date of
2 the payment;

3 (3) the date of the payment is at least six months
4 after the effective date of the employee's last promotion or merit
5 salary increase relating to that position;

6 (4) the date of the payment is at least six months
7 after the date of the agency's last payment to the employee of an
8 enhanced compensation award authorized by the General
9 Appropriations Act or a one-time merit payment relating to that
10 position; and

11 (5) the agency has complied with Subsection (c).

12 (b) The changes in law made by Subsection (a) of this
13 section apply only to a merit salary increase that takes effect on
14 or after the effective date of that subsection. A merit salary
15 increase that takes effect before the effective date of that
16 subsection is governed by the law in effect on the date the increase
17 takes effect, and the prior law is continued in effect for that
18 purpose. In this subsection, "merit salary increase" has the
19 meaning assigned by Section 659.255, Government Code, as amended by
20 Subsection (a) of this section.

21 (c) The changes in law made by Subsection (a) of this
22 section apply only to a one-time merit payment that is made on or
23 after the effective date of that subsection. A one-time merit
24 payment that is made before the effective date of that subsection is
25 governed by the law in effect on the date the payment is made, and
26 the prior law is continued in effect for that purpose.

27 SECTION 17. Subchapter K, Chapter 659, Government Code, is

1 amended by adding Section 659.262 to read as follows:

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

4 SECTION 18. Section 832.002, Government Code, is amended to
5 read as follows:

6 Sec. 832.002. MEMBERSHIP FEE. (a) Each member of the
7 retirement system annually shall pay the system a membership fee of
8 \$10. A contributing member shall pay the fee with the member's
9 first contribution to the retirement system in each fiscal year in
10 the manner provided by Section 835.101 for payment of the member's
11 contribution to the retirement system.

12 (b) If the membership fee is not paid with the member's
13 first contribution of the year to the retirement system, the board
14 of trustees may deduct the amount of the fee from that contribution
15 or from any benefit to which the member becomes entitled.

16 SECTION 19. Subsections (a) and (b), Section 2101.0115,
17 Government Code, are amended to read as follows:

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

- 19 (1) the governor;
20 (2) ~~[the comptroller,]~~
21 ~~[(3)]~~ the Legislative Reference Library;
22 (3) ~~[(4)]~~ the state auditor; and
23 (4) ~~[(5)]~~ the Legislative Budget Board.

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

1 SECTION 20. Section 2113.205(b), Government Code, is
2 amended to read as follows:

3 (b) The comptroller may authorize a [A] state agency to
4 [may] use money appropriated for a particular fiscal year to pay the
5 entire cost or amount of a service, regardless of whether the
6 service is provided over more than one fiscal year. In this
7 subsection, "service" includes an Internet connection, a
8 periodical subscription, a maintenance contract, a post office box
9 rental, insurance, and [or] a surety or honesty bond[~~, regardless~~
10 of whether it covers more than one fiscal year].

11 SECTION 21. Section 2162.001, Government Code, is amended
12 to read as follows:

13 Sec. 2162.001. DEFINITIONS [~~DEFINITION~~]. In this
14 chapter[~~7~~]:

15 (1) "Council" ["council"] means the State Council on
16 Competitive Government.

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

20 SECTION 22. Section 2162.102, Government Code, is amended
21 by adding Subsection (d) to read as follows:

22 (d) To the extent the council deems feasible, a local
23 government may voluntarily participate in a contract awarded by the
24 council or a state agency under this chapter. A local government
25 that purchases a good or a service under a contract awarded under
26 this chapter is considered to have satisfied any state law
27 requiring the local government to seek competitive bids for the

1 purchase.

2 SECTION 23. Subchapter I, Chapter 2166, Government Code, is
3 amended by adding Section 2166.4061 to read as follows:

4 Sec. 2166.4061. ENERGY SAVINGS PERFORMANCE CONTRACTS. (a)

5 In this section, "energy savings performance contract" means a
6 contract for energy or water conservation measures to reduce energy
7 or water consumption or operating costs of governmental facilities
8 in which the estimated savings in utility costs resulting from the
9 measures is guaranteed to offset their cost over a specified time
10 period. The term includes a contract for the installation or
11 implementation of:

12 (1) insulation of a building structure and systems
13 within the building;

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

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

20 (4) heating, ventilating, or air conditioning system
21 modifications or replacements that reduce energy or water
22 consumption;

23 (5) lighting fixtures that increase energy
24 efficiency;

25 (6) energy recovery systems;

26 (7) electric systems improvements;

27 (8) water-conserving fixtures, appliances, and

1 equipment or the substitution of non-water-using fixtures,
2 appliances, and equipment;

3 (9) water-conserving landscape irrigation equipment;

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

6 (A) landscape contouring, including the use of
7 berms, swales, and terraces; and

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

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

13 (12) equipment for recycling or reuse of water
14 originating on the premises or from other sources, including
15 treated municipal effluent;

16 (13) equipment needed to capture water from
17 nonconventional, alternate sources, including air conditioning
18 condensate or graywater, for nonpotable uses;

19 (14) metering equipment needed to segregate water use
20 in order to identify water conservation opportunities or verify
21 water savings; or

22 (15) other energy or water conservation-related
23 improvements or equipment, including improvements or equipment
24 related to renewable energy or nonconventional water sources or
25 water reuse.

26 (b) Notwithstanding any other provision of this chapter, a
27 state agency, without the consent of the commission, may enter into

1 an energy savings performance contract in accordance with this
2 section.

3 (c) Each energy or water conservation measure adopted under
4 this section must comply with current local, state, and federal
5 construction, plumbing, and environmental codes and regulations.
6 Notwithstanding Subsection (a), an energy savings performance
7 contract may not include improvements or equipment that allow or
8 cause water from any condensing, cooling, or industrial process or
9 any system of nonpotable usage over which the public water supply
10 system officials do not have sanitary control to be returned to the
11 potable water supply.

12 (d) A state agency may enter into an energy savings
13 performance contract only with a person who is experienced in the
14 design, implementation, and installation of the energy or water
15 conservation measures addressed by the contract.

16 (e) Before entering into an energy savings performance
17 contract, a state agency must require the provider of the energy or
18 water conservation measures to file with the agency a payment and
19 performance bond relating to the installation of the measures in
20 accordance with Chapter 2253. The agency also may require a
21 separate bond to cover the value of the guaranteed savings on the
22 contract.

23 (f) A state agency may enter into an energy savings
24 performance contract for a period of more than one year only if the
25 agency finds that the amount the agency would spend on the energy or
26 water conservation measures will not exceed the amount to be saved
27 in energy, water, wastewater, and operating costs over 15 years

1 from the date of installation.

2 (g) An energy savings performance contract with respect to
3 existing buildings or facilities may be financed:

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

10 (2) with the proceeds of bonds; or

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

14 (h) An energy savings performance contract must require the
15 provider of the energy or water conservation measures to guarantee
16 the amount of the savings to be realized by the state agency under
17 the contract. If the term of the contract exceeds one year, then
18 the agency's contractual obligations, including costs of design,
19 engineering, installation, and anticipated debt service, in any one
20 year during the term of the contract beginning after the final date
21 of installation may not exceed the total energy, water, wastewater,
22 and operating cost savings, including electrical, gas, water, or
23 wastewater, or other utility cost savings and operating cost
24 savings resulting from the measures as determined by the agency in
25 this subsection, divided by the number of years in the contract
26 term.

27 (i) An energy savings performance contract must be let

1 according to the procedures established for professional services
2 by Section 2254.004. Notice of the request for qualifications
3 shall be given in the manner provided by Section 2156.002. The
4 state energy conservation office shall establish guidelines and an
5 approval process for awarding energy savings performance
6 contracts. The guidelines must require that the cost savings
7 projected by an offeror be reviewed by a licensed engineer who is
8 not an officer or employee of an offeror for the contract under
9 review or otherwise associated with the contract. An engineer who
10 reviews a contract shall maintain the confidentiality of any
11 proprietary information the engineer acquires while reviewing the
12 contract. An energy savings performance contract may not be
13 entered into unless the contract has been approved by the state
14 energy conservation office. Sections 1001.053 and 1001.407,
15 Occupations Code, apply to work performed under the contract.

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

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

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

25 SECTION 24. (a) Section 2251.025(b), Government Code, is
26 amended to read as follows:

27 (b) The rate of the interest that [~~Interest~~] accrues on an

1 overdue payment [~~at~~] is the rate [~~of one percent each month~~] in
2 effect on September 1 of the fiscal year in which the payment
3 becomes overdue. The rate in effect on September 1 is equal to the
4 sum of:

5 (1) one percent; and

6 (2) the prime rate as published in *The Wall Street*
7 *Journal* on the first day of July of the preceding fiscal year that
8 does not fall on a Saturday or Sunday.

9 (b) The rate of interest that accrues on a payment that
10 becomes overdue on or after September 1, 2004, is the rate
11 determined under Section 2251.025(b), Government Code, as amended
12 by Subsection (a) of this section. The rate of interest that
13 accrues on a payment that becomes overdue before September 1, 2004,
14 is the rate determined under the law in effect before the effective
15 date of this section, and the prior law is continued in effect for
16 that purpose.

17 SECTION 25. (a) Section 2252.903(e), Government Code, is
18 amended by adding Subdivision (4) to read as follows:

19 (4) "Written contract" does not include any contract
20 the payments for which must be made through the comptroller's
21 issuance of warrants or initiation of electronic funds transfers
22 under Section 404.046, 404.069, or 2103.003.

23 (b) The changes in law made by Subsection (a) of this
24 section apply only to a written contract that is entered into on or
25 after the effective date of that subsection. A written contract
26 that is entered into before the effective date of that subsection is
27 governed by the law in effect on the date the contract is entered

1 into, and the prior law is continued in effect for that purpose. In
2 this subsection, "written contract" has the meaning assigned by
3 Section 2252.903, Government Code, as amended by Subsection (a) of
4 this section.

5 SECTION 26. Section 2305.012, Government Code, is amended
6 to read as follows:

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

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

- 12 (1) evaluate or review a proposal;
- 13 (2) audit a program participant or a supervising state
14 agency;
- 15 (3) perform administrative duties under this chapter;
- 16 or
- 17 (4) develop eligibility or evaluation criteria.

18 SECTION 27. Section 2305.032, Government Code, is amended
19 to read as follows:

20 Sec. 2305.032. LOANSTAR REVOLVING LOAN PROGRAM. (a) The
21 energy office under the loanstar revolving loan program may
22 ~~[approve and finance projects that]~~ provide loans that finance
23 public facility energy and water efficiency measures ~~[to eligible~~
24 ~~applicants for energy-saving capital improvements. Projects~~
25 ~~approved by the energy office should benefit:~~

- 26 ~~[(1) a state agency or institution of higher~~
27 ~~education,~~

1 ~~[(2) a public school,~~
2 ~~[(3) a political subdivision of the state,~~
3 ~~[(4) a small to medium-sized business, and~~
4 ~~[(5) a public or nonprofit hospital or health care~~
5 ~~facility].~~

6 (b) The energy office shall determine the terms under which
7 a loan may be made under this section and shall set the interest
8 rate for a loan at a low rate that the energy office determines is
9 sufficient to recover the cost of administering the loan program.

10 (c) ~~[At least 85 percent of the loans made under this~~
11 ~~section shall be awarded to state agencies, institutions of higher~~
12 ~~education, public schools, or political subdivisions.]~~

13 ~~[(d)]~~ Any borrower that receives a loan under this section
14 shall repay the principal of and interest on the loan from the value
15 of energy savings that accrues as the result of the energy
16 conservation measure implemented with the borrowed money.

17 (d) ~~[(e)]~~ An institution that receives a loan under this
18 section shall repay the loan from the amount budgeted for the
19 agency's or institution's energy costs. Until the loan is repaid,
20 the legislature may not reduce the amount budgeted for those energy
21 costs to reflect the value of energy savings that accrues as a
22 result of the energy conservation measure implemented with the
23 borrowed money.

24 (e) ~~[(f)]~~ The energy office shall allocate at least \$95
25 million, including loan commitments and cash on hand, to the
26 loanstar program and shall administer the funds under its control
27 in a manner that assures that funds available to the loanstar

1 program equal or exceed \$95 million at all times.

2 SECTION 28. Section 2305.033, Government Code, is amended
3 to read as follows:

4 Sec. 2305.033. STATE ENERGY PROGRAM. (a) The energy office
5 is the supervising state agency for the state energy program.

6 (b) In accordance with Part D [~~B~~], title III, Energy Policy
7 and Conservation Act (42 U.S.C. Sec. 6321 et seq.), the energy
8 office, under the program, shall distribute funds for projects that
9 save measurable quantities of energy.

10 (c) [~~A project under Subsection (b) must be implemented~~
11 ~~primarily by institutions or private sector energy consumers.~~

12 [~~(d)~~] A proposal under Subsection (b) must:

13 (1) promote the conservation of energy; or [~~and~~]

14 (2) improve the efficient use of energy through
15 activities that result in quantifiable energy savings, such as
16 [~~including~~]:

17 (A) energy audits of buildings;

18 (B) technical assistance in reducing energy
19 bills;

20 (C) training to building operators and fiscal
21 officers on various energy issues such as utility bill analysis and
22 energy management techniques; or [~~and~~]

23 (D) other technical assistance to programs for
24 which funds are appropriated.

25 SECTION 29. Section 2305.034, Government Code, is amended
26 to read as follows:

27 Sec. 2305.034. STATE AGENCIES PROGRAM. The energy office

1 is the supervising agency for the state agencies program that may
2 distribute funds through Chapter 447. Projects funded under this
3 section may include:

4 (1) energy manager training;
5 (2) energy savings performance contracting services,
6 including: [~~described by Section 51.927, Education Code,~~]

7 (A) education and training;
8 (B) contract review and approval;
9 (C) third party contract review;
10 (D) development and dissemination of guidelines;

11 and

12 (E) identification of contract financing
13 sources;

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

16 (4) projects for state building design standards
17 compliance;

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

20 (6) projects to develop and maintain the state's
21 utility database; and

22 (7) other appropriate energy and information
23 applications.

24 SECTION 30. Section 2305.039(b), Government Code, is
25 amended to read as follows:

26 (b) A project may:

27 (1) assist a service provider in providing services

1 such as:

- 2 (A) [~~traffic light synchronization,~~
- 3 [~~(B) fleet management,~~
- 4 [~~(C)~~] computerized transit routing that is
- 5 energy efficient;
- 6 [~~(D) car-care clinics,~~
- 7 (B) [~~(E)~~] commuting solutions [~~vanpooling or~~
- 8 ~~ridesharing efforts~~]; and
- 9 (C) [~~(F)~~] public education related to mass
- 10 transit; and
- 11 [~~(C) driver training in energy conservation~~
- 12 ~~awareness, and~~]
- 13 [~~(H) transportation services for the elderly or~~
- 14 ~~persons with a disability, and~~]

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

17 SECTION 31. Section 2306.783(a), Government Code, is
18 amended to read as follows:

19 (a) The Texas Interagency Council for the Homeless is
20 composed of:

21 (1) one representative from each of the following
22 agencies, appointed by the administrative head of that agency:

- 23 (A) the Texas Department of Health;
- 24 (B) the Texas Department of Human Services;
- 25 (C) the Texas Department of Mental Health and
- 26 Mental Retardation;
- 27 (D) the Texas Department of Criminal Justice;

- 1 (E) the Texas Department on Aging;
- 2 (F) the Texas Rehabilitation Commission;
- 3 (G) the Texas Education Agency;
- 4 (H) the Texas Commission on Alcohol and Drug
- 5 Abuse;
- 6 (I) the Department of Protective and Regulatory
- 7 Services;
- 8 (J) the Health and Human Services Commission;
- 9 (K) the Texas Workforce Commission;
- 10 (L) the Texas Youth Commission; and
- 11 (M) the Texas Veterans Commission;

12 (2) [~~one representative from the office of the~~
 13 ~~comptroller appointed by the comptroller,~~]

14 [~~(3)~~] two representatives from the department, one
 15 each from the community affairs division and the housing finance
 16 division, appointed by the director; and

17 (3) [~~(4)~~] three members representing service
 18 providers to the homeless, one each appointed by the governor, the
 19 lieutenant governor, and the speaker of the house of
 20 representatives.

21 SECTION 32. The heading to Chapter 302, Local Government
 22 Code, is amended to read as follows:

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

25 SECTION 33. Section 302.001, Local Government Code, is
 26 amended to read as follows:

27 Sec. 302.001. DEFINITIONS [~~DEFINITION~~]. In this

1 chapter[7]:

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

9 (A) insulation of a building structure and
10 systems within the building;

11 (B) storm windows or doors, caulking or weather
12 stripping, multiglazed windows or doors, heat absorbing or heat
13 reflective glazed and coated window or door systems, or other
14 window or door system modifications that reduce energy consumption;

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

17 (D) heating, ventilating, or air conditioning
18 system modifications or replacements that reduce energy or water
19 consumption;

20 (E) lighting fixtures that increase energy
21 efficiency;

22 (F) energy recovery systems;

23 (G) electric systems improvements;

24 (H) water-conserving fixtures, appliances, and
25 equipment or the substitution of non-water-using fixtures,
26 appliances, and equipment;

27 (I) water-conserving landscape irrigation

1 equipment;

2 (J) landscaping measures that reduce watering
3 demands and capture and hold applied water and rainfall, including:

4 (i) landscape contouring, including the use
5 of berms, swales, and terraces; and

6 (ii) the use of soil amendments that
7 increase the water-holding capacity of the soil, including compost;

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

11 (L) equipment for recycling or reuse of water
12 originating on the premises or from other sources, including
13 treated municipal effluent;

14 (M) equipment needed to capture water from
15 nonconventional, alternate sources, including air conditioning
16 condensate or graywater, for nonpotable uses;

17 (N) metering equipment needed to segregate water
18 use in order to identify water conservation opportunities or verify
19 water savings; or

20 (O) other energy or water conservation-related
21 improvements or equipment, including improvements or equipment
22 relating to renewable energy or nonconventional water sources or
23 water reuse.

24 (2) "Local [~~local~~] government" means a county,
25 municipality, or other political subdivision of this state. The
26 term [~~local government~~] does not include a school district
27 authorized to enter into [~~a~~] an energy savings performance contract

1 ~~[for energy or water conservation measures]~~ under Section 44.9011
2 ~~[44.901]~~, Education Code.

3 SECTION 34. Section 302.002, Local Government Code, is
4 amended to read as follows:

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

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

13 ~~[(1) insulation of the building structure and systems~~
14 ~~within the building;~~

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

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

21 ~~[(4) heating, ventilating, or air conditioning system~~
22 ~~modifications or replacements that reduce energy or water~~
23 ~~consumption;~~

24 ~~[(5) lighting fixtures that increase energy~~
25 ~~efficiency;~~

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

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

1 ~~[(8) water-conserving fixtures, appliances, and~~
2 ~~equipment or the substitution of non-water-using fixtures,~~
3 ~~appliances, and equipment,~~

4 ~~[(9) water-conserving landscape irrigation equipment,~~

5 ~~[(10) landscaping measures that reduce watering~~
6 ~~demands and capture and hold applied water and rainfall, including:~~

7 ~~[(A) landscape contouring, including the use of~~
8 ~~berms, swales, and terraces; and~~

9 ~~[(B) the use of soil amendments that increase the~~
10 ~~water-holding capacity of the soil, including compost;~~

11 ~~[(11) rainwater harvesting equipment and equipment to~~
12 ~~make use of water collected as part of a storm-water system~~
13 ~~installed for water quality control;~~

14 ~~[(12) equipment for recycling or reuse of water~~
15 ~~originating on the premises or from other sources, including~~
16 ~~treated municipal effluent;~~

17 ~~[(13) equipment needed to capture water from~~
18 ~~nonconventional, alternate sources, including air conditioning~~
19 ~~condensate or graywater, for nonpotable uses;~~

20 ~~[(14) metering equipment needed to segregate water use~~
21 ~~in order to identify water conservation opportunities or verify~~
22 ~~water savings; or~~

23 ~~[(15) other energy or water conservation-related~~
24 ~~improvements or equipment, including improvements or equipment~~
25 ~~related to renewable energy or nonconventional water sources or~~
26 ~~water reuse.]~~

27 ~~[(c)]~~ Each ~~[All]~~ energy or water conservation measure

1 adopted under this section [~~measures~~] must comply with current
2 local, state, and federal construction, plumbing, and
3 environmental codes and regulations. Notwithstanding Section
4 302.001(1) [~~anything to the contrary in Subsection (b)~~], an energy
5 savings performance [~~a~~] contract [~~for energy or water conservation~~
6 ~~measures~~] may [~~shall~~] not include improvements or equipment that
7 allow or cause water from any condensing, cooling, or industrial
8 process or any system of nonpotable usage over which public water
9 supply system officials do not have sanitary control to be returned
10 to the potable water supply.

11 SECTION 35. Chapter 302, Local Government Code, is amended
12 by adding Section 302.0031 to read as follows:

13 Sec. 302.0031. PAYMENT AND PERFORMANCE BOND.
14 Notwithstanding any other law, before entering into an energy
15 savings performance contract, the governing body of a local
16 government shall require the provider of the energy or water
17 conservation measures to file with the governing body a payment and
18 performance bond relating to the installation of the measures in
19 accordance with Chapter 2253, Government Code. The governing body
20 also may require a separate bond to cover the value of the
21 guaranteed savings under the contract.

22 SECTION 36. Section 302.004, Local Government Code, is
23 amended to read as follows:

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

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

5 (2) with the proceeds of bonds; or

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

9 (b) An energy savings performance ~~[The]~~ contract must
10 require ~~[shall contain provisions pursuant to which]~~ the provider
11 of the energy or water conservation measures to guarantee
12 ~~[guarantees]~~ the amount of ~~[the]~~ savings to be realized by the local
13 government under the contract. If the term of the ~~[a]~~ contract ~~[for~~
14 ~~energy or water conservation measures]~~ exceeds one year, then the
15 local government's contractual obligations in any one year during
16 the term of the contract beginning after the final date of
17 installation may not exceed the total energy, water, wastewater,
18 and operating cost savings, including ~~[but not limited to]~~
19 electrical, gas, water, wastewater, or other utility cost savings
20 and operating cost savings resulting from the measures as
21 determined by the local government in this subsection, divided by
22 the number of years in the contract term.

23 SECTION 37. Chapter 302, Local Government Code, is amended
24 by adding Section 302.006 to read as follows:

25 Sec. 302.006. BIDDING PROCEDURES; AWARD OF CONTRACT. (a)
26 An energy savings performance contract may be let according to the
27 procedures established for professional services by Section

1 2254.004, Government Code. Notice of the request for
2 qualifications shall be published in the manner provided for
3 competitive bidding.

4 (b) Prior to entering into an energy savings performance
5 contract, the governing body must require that the cost savings
6 projected by an offeror be reviewed by a licensed engineer who is
7 not an officer or employee of an offeror for the contract under
8 review or otherwise associated with the contract. An engineer who
9 reviews a contract shall maintain the confidentiality of any
10 proprietary information the engineer acquires while reviewing the
11 contract. Sections 1001.053 and 1001.407, Occupations Code, apply
12 to work performed under the contract.

13 SECTION 38. (a) Section 74.103, Property Code, is amended
14 by adding Subsection (d) to read as follows:

15 (d) If a holder's records are unavailable or incomplete for
16 any portion of the required retention period, then the comptroller
17 may determine the liability of the holder using the best
18 information available to the comptroller.

19 (b) The changes in law made by Subsection (a) of this
20 section apply only to an examination begun on or after the effective
21 date of that subsection. An examination begun before the effective
22 date of that subsection is governed by the law in effect on the date
23 the examination begins, and the prior law is continued in effect for
24 that purpose. In this subsection, "examination" means an
25 examination of records by the comptroller under Subchapter H,
26 Chapter 74, Property Code.

27 SECTION 39. Section 74.501, Property Code, is amended by

1 adding Subsection (d) to read as follows:

2 (d)(1) Upon receipt of a claim form and all necessary
3 documentation and as may be appropriate under the circumstances,
4 the comptroller may approve the claim of:

5 (A) the reported owner of the property;

6 (B) if the reported owner died testate:

7 (i) the appropriate legal beneficiaries of
8 the owner as provided in the last will and testament of the owner
9 that has been accepted into probate or filed as a muniment of title;
10 or

11 (ii) the executor of the owner's last will
12 and testament who holds current letters testamentary;

13 (C) if the reported owner died intestate:

14 (i) the legal heirs of the owner as provided
15 by Section 38, Probate Code; or

16 (ii) the court appointed administrator of
17 the owner's estate;

18 (D) the legal heirs of the reported owner as
19 established by an affidavit of heirship order signed by the judge of
20 the county probate court or by the county judge;

21 (E) if the reported owner is a minor child or an
22 adult who has been adjudged incompetent by a court of law, the
23 parent or legal guardian of that child or adult;

24 (F) if the reported owner is a corporation:

25 (i) the president or chairman of the board
26 of directors of the corporation, on behalf of the corporation; or

27 (ii) any person who has legal authority to

1 act on behalf of the corporation;

2 (G) if the reported owner is a corporation that
3 has been dissolved or liquidated:

4 (i) the sole surviving shareholder of the
5 corporation, if there is only one surviving shareholder;

6 (ii) the surviving shareholders of the
7 corporation in proportion to their ownership of the corporation, if
8 there is more than one surviving shareholder;

9 (iii) the corporation's bankruptcy trustee;
10 or

11 (iv) the court ordered receiver for the
12 corporation; or

13 (H) any other person that is entitled to receive
14 the unclaimed property under other law or comptroller policy.

15 (2) The comptroller may not pay:

16 (A) a creditor, a judgment creditor, a
17 lienholder, or an assignee of the reported owner or of the owner's
18 heirs; or

19 (B) any person holding a power of attorney from
20 the reported owner or the owner's heirs.

21 SECTION 40. Section 112.058(a), Tax Code, is amended to
22 read as follows:

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

26 (1) An officer who receives payments made under
27 protest as required by Section 112.051 [~~of this code~~] shall each day

1 send to the comptroller the payments, a list of the persons making
2 the payments, and a written statement that the payments were made
3 under protest.

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

7 (3) The comptroller shall maintain detailed records of
8 payments made under protest.

9 (4) A payment under protest bears pro rata interest.
10 The pro rata interest is the amount of interest that would be due if
11 the amount had been placed in the suspense account of the
12 comptroller.

13 SECTION 41. Section 256.003, Transportation Code, is
14 amended to read as follows:

15 Sec. 256.003. USE OF REVENUES FROM COUNTY AND ROAD DISTRICT
16 HIGHWAY FUND. (a) A county may use the money it receives under
17 Section 256.002 only for:

18 (1) purchasing right-of-way for lateral roads,
19 farm-to-market roads, or state highways;

20 (2) constructing and maintaining lateral roads,
21 including the hiring of labor and the purchase of materials,
22 supplies, and equipment; or

23 (3) paying the principal, interest, and sinking fund
24 requirements maturing during the fiscal year on bonds, warrants, or
25 other legal obligations incurred to finance activities described in
26 Subdivisions (1) and (2).

27 [~~(b) On or before October 1 of each year the county judge of~~

1 ~~each county shall file with the comptroller a sworn report that~~
2 ~~includes:~~

3 ~~[(1) an account of how the money allocated to the~~
4 ~~county under Section 256.002 during the preceding year was spent;~~

5 ~~[(2) a description, including location, of any new~~
6 ~~roads constructed in whole or part with that money; and~~

7 ~~[(3) any other information related to the~~
8 ~~administration of Section 256.002 and this section that the~~
9 ~~comptroller requires.~~

10 ~~[(c) A county officer or employee shall provide to the~~
11 ~~comptroller on request any information necessary to determine the~~
12 ~~legality of the use of funds allocated under Section 256.002.]~~

13 (b) ~~[(d)]~~ A county may require that bids for construction
14 funded in whole or part by money received under Section 256.002 be
15 submitted to the commission in the manner provided for bids for
16 construction of a state highway.

17 (c) ~~[(e)]~~ On the request of a county, the commission shall
18 provide technical and engineering assistance in making surveys,
19 preparing plans and specifications, preparing project proposals,
20 and supervising construction. The county shall pay the costs of
21 providing the assistance.

22 SECTION 42. Section 256.009, Transportation Code, is
23 amended to read as follows:

24 Sec. 256.009. REPORT TO COMPTROLLER. (a) Not later than
25 January 30 of each year, the county auditor or, if the county does
26 not have a county auditor, the official having the duties of the
27 county auditor shall file a report with the comptroller [~~stating~~]

1 that includes:

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

4 (2) a description, including location, of any new
5 roads constructed in whole or part with that money;

6 (3) any other information related to the
7 administration of Sections 256.002 and 256.003 that the comptroller
8 requires; and

9 (4) the total amount of expenditures for county road
10 and bridge construction, maintenance, rehabilitation, right-of-way
11 acquisition, and utility construction and other appropriate road
12 expenditures of county funds in the preceding county fiscal year
13 that are required by the constitution or other law to be spent on
14 public roads or highways. [~~The report must be in a form prescribed~~
15 by the comptroller.]

16 (b) A county officer or employee shall provide to the
17 comptroller on request any information necessary to determine the
18 legality of the use of funds allocated under Section 256.002.

19 (c) The report must be in a form prescribed by the
20 comptroller.

21 (d) The comptroller may distribute money under Section
22 256.002(a) to a county only if the most recent report required by
23 Subsection (a) has been filed.

24 SECTION 43. (a) The following laws are repealed:

25 (1) Sections 44.901 and 51.927, Education Code.

26 (2) Subchapter O, Chapter 403, Government Code.

27 (3) Sections 2166.406, 2305.025, 2305.073, 2305.074,

1 and 2305.076, Government Code.

2 (4) Sections 302.003 and 302.005, Local Government
3 Code.

4 (b) The following laws are repealed:

5 (1) Section 395.103, Finance Code.

6 (2) Subsections (b) and (c), Section 112.058, Tax
7 Code.

8 SECTION 44. (a) Except as provided in Subsection (c) of this
9 section, for the fiscal year ending August 31, 2003, the
10 comptroller is appropriated from the general revenue fund the
11 amount needed to return any available cash that was transferred to
12 that fund from a fund outside the state treasury and to maintain the
13 equity of the fund from which the transfer was made, as required by
14 Section 403.092, Government Code, as amended by this Act.

15 (b) For the fiscal biennium beginning September 1, 2003, the
16 comptroller is appropriated from the general revenue fund the
17 amount needed to return any available cash that was transferred to
18 that fund from a fund outside the state treasury and to maintain the
19 equity of the fund from which the transfer was made, as required by
20 Section 403.092, Government Code, as amended by this Act.

21 (c) Subsection (a) of this section has no effect if it would
22 take effect September 1, 2003.

23 SECTION 45. (a) Except as provided in Subsections (b) and
24 (c) of this section:

25 (1) this Act takes effect immediately if it receives a
26 vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution; and

1 (2) if this Act does not receive the vote necessary for
2 immediate effect, this Act takes effect September 1, 2003.

3 (b) This subsection and Sections 2, 3, 14, 15, 16, 17, 19,
4 20, 25, 38, 39, 40, 41, 42, 43(b), and 44(b) of this Act take effect
5 September 1, 2003.

6 (c) Section 24 of this Act takes effect July 1, 2004.