

## **BILL ANALYSIS**

Senate Research Center

H.B. 431  
By: Lucio III et al. (Hinojosa)  
Government Organization  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Over a 20-year life-cycle of a high-performance building, building owners and governmental entities will see a significant return on the initial investment in such a building. These buildings are generally recognized as using key resources like energy, water, materials, and land much more efficiently than buildings that are simply built to code. High-performance buildings also provide a potentially promising way to help address a range of challenges, such as rising electric costs; pending water shortages, and waste disposal issues; continued federal pressure to cut pollutants; the rising incidence of allergies and asthma; the health and productivity of workers; and the increasing expense of maintaining and operating state facilities over time. Current law, however, provides no performance standards for the construction of such buildings for the state.

H.B. 431 amends current law relating to design, construction, and renovation standards for state buildings and facilities.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the State Energy Conservation Office in SECTION 1 (Section 2166.409, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter I, Chapter 2166, Government Code, by adding Section 2166.409, as follows:

Sec. 2166.409. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR STATE BUILDINGS.

(a) Provides that this section applies to the construction of a state building, or the renovation of a state building the cost of which is more than 50 percent of the value of the building, including a building for education, assembly, or office occupancy under the charge and control of the Texas Department of Transportation, the Parks and Wildlife Department, the Texas Department of Housing Community Affairs, the Texas State Affordable Housing Corporation, or the Veterans' Land Board that is otherwise exempt from this chapter under Section 2166.003 (Exceptions). Provides that this section does not apply to a facility under the charge and control of Texas Department of Criminal Justice or the Texas Youth Commission.

(b) Requires that a building to which this section applies be designed and constructed or renovated so that the building achieves certification under a high-performance building standard approved by the Texas Facilities Commission (TFC) that is developed and revised through a nationally recognized consensus-based process or by a municipally owned utility in this state; provides minimum requirements for energy use, natural resources use, and indoor air quality; requires substantiating documentation for certification; requires on-site, third-party, post-construction review and verification for certification, or a third-party, post-construction, rigorous review of documentation and verification for certification; and encourages the use of materials or products manufactured or produced in this state.

(c) Requires TFC to appoint an advisory committee (committee) to advise TFC in determining which high-performance building standards to approve for use under

Subsection (b). Requires the committee, at least once each year, to review available high-performance building standards and make recommendations to TFC. Provides that the committee consists of:

(1) the director of facilities construction and space management appointed under Section 2152.104 (Associate Deputy Directors; Division Directors), who serves as the presiding officer of the committee;

(2) seven individuals with experience and expertise in high-performance buildings or related products, including experience and expertise in energy efficiency, water efficiency, or low-impact site development, with one individual selected from each of the following lists of nominees: a list submitted by the president of the Texas Society of Architects; a list submitted by the president of the Texas Council of Engineering Companies and Texas Society of Professional Engineers; a list submitted by the president of the Associated Builders and Contractors of Texas and the presiding officer of the executive committee of the Associated General Contractors, Texas Building Branch; a list submitted by the president of the Texas chapter of the Urban Land Institute; a list submitted by the president of the Texas chapter of the American Society of Landscape Architects; a list submitted by the president of the Texas Chemical Council; and a list of registered interior designers submitted by the president of the Texas Association of Interior Design;

(3) one individual appointed by the comptroller who represents the State Energy Conservation Office (office);

(4) one individual representing a state agency that has a substantial ongoing construction program; and

(5) one individual representing the interests of historically underutilized businesses.

(d) Requires that a building to which this section applies, in addition to meeting the requirements of Subsection (b), be designed and constructed or renovated so that the building:

(1) meets the American Society of Heating, Refrigeration and Air Conditioning Engineers energy standards in effect on September 1, 2009, or the International Energy Conservation Code in effect on September 1, 2009, or an updated version of those standards or that code adopted by the office under Subsection (e), if applicable; and

(2) achieves a 15 percent reduction in water use when compared to water use based on plumbing fixtures selected in accordance with the Energy Policy Act of 1992 (Pub. L. No. 102-486).

(e) Requires the office, if the office determines, based on written recommendations from the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System, that the latest published edition of the Heating, Refrigeration and Air Conditioning Engineers energy standards or the International Energy Conservation Code will result in energy efficiency and air quality that is equivalent to or better than the energy efficiency and air quality achievable under the editions described by Subsection (d)(1), by rule to adopt the equivalent or more stringent editions and substitute them for the standards or code described by Subsection (d)(1). Requires that the rule, if adopted, establish an effective date for the new standards or code but not earlier than nine months after the date of adoption. Requires that the laboratory make its recommendations not later than six months after the date of publication of the new editions.

(f) Requires that a contract between TFC and a private design professional relating to services in connection with the construction or renovation of a building to which this section applies provide that, for billing purposes, any service provided by the private design professional that is necessary to satisfy the requirements of Subsection (b) or (d) is considered an additional service rather than a basic service.

SECTION 2. Amends Subchapter B, Chapter 55, Education Code, by adding Section 55.115, as follows:

Sec. 55.115. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR CERTAIN FACILITIES. (a) Provides that this section applies to the construction of an institution of higher education building, structure, or other facility, or the renovation of a building, structure, or other facility the cost of which is more than 50 percent of the value of the building, structure, or other facility any part of the construction or renovation of which is financed by revenue bonds issued under this subchapter.

(b) Requires that a building, structure, or other facility to which this section applies be designed and constructed or renovated so that the building, structure, or other facility complies with high-performance building standards, approved by the board of regents of the institution, that provide minimum requirements for energy use, natural resource use, and indoor air quality. Requires a board of regents, in approving high-performance building standards, to consider the standards approved by TFC under Section 2166.409, Government Code, and authorizes the board of regents to solicit and consider recommendations from the committee appointed under that section.

(c) Requires that a building, structure, or other facility to which this section applies, in addition to meeting the requirements of Subsection (b), be designed and constructed or renovated to comply with the applicable energy and water conservation design standards established by the office under Section 447.004 (Design Standards), Government Code.

SECTION 3. Provides that Section 55.115, Education Code, and Section 2166.409, Government Code, as added by this Act, apply only to an institution of higher education building, structure, or other facility or a state building for which the contract for design services is entered into on or after September 1, 2011.

SECTION 4. Effective date: September 1, 2009.