

BILL ANALYSIS

C.S.H.B. 431
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State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

In the United States, buildings account for 72 percent of electricity use and 30 percent of waste output. Adhering to improved building practices ensures that both newly constructed buildings and renovated buildings conserve natural resources, reduce waste output, reduce operating costs, and enhance occupant comfort and health.

C.S.H.B. 431 sets forth high-performance sustainable design, construction, and renovation requirements for state buildings and higher education facilities.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the State Energy Conservation Office, within the Office of the Comptroller of Public Accounts, in SECTION 1 of the bill.

ANALYSIS

C.S.H.B. 431 adds provisions to the Government Code to require a state building to which the provisions apply to be designed and constructed or renovated to achieve certification under a high-performance building standard approved by the Texas Facilities Commission. The bill applies the requirement to the construction of a state building or a renovation of such 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 and Community Affairs, the Texas State Affordable Housing Corporation, or the Veterans' Land Board that otherwise would be exempt from the bill's applicability based on other state law on building construction and acquisition.

C.S.H.B. 431 sets out specified elements of the commission-approved building standard, including that it be developed and revised through a nationally recognized consensus-based process or by a municipally owned utility in Texas; provide minimum requirements for energy use, natural resources use, and indoor air quality; require substantiating documentation for certification; require on-site, third-party, post-construction review and verification for certification; and encourage the use of materials or products manufactured or produced in Texas.

C.S.H.B. 431 requires the commission to appoint an advisory committee to advise the commission in determining which high-performance building standards to approve and requires the advisory committee to review available high-performance building standards and make recommendations to the commission at least once each year. The bill sets forth the membership of the advisory committee.

C.S.H.B. 431 requires a state building, in addition to meeting certification requirements under the commission-approved building standard, to be designed and constructed or renovated so that the building meets the American Society of Heating, Refrigeration, and Air Conditioning

Engineers (ASHRAE) 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 State Energy Conservation Office, if applicable, and so that the building 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.

C.S.H.B. 431 requires the State Energy Conservation Office by rule, if it 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 ASHRAE 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 2009 editions of the standards or code, to adopt the equivalent or more stringent editions and substitute them for the 2009 standards or code. The bill requires the rule, if adopted, to establish an effective date for the new standards or code, but not earlier than nine months after the date of adoption. The bill requires the laboratory to make its recommendations not later than six months after the date of publication of the new editions.

C.S.H.B. 431 requires a contract between the commission and a private design professional relating to services in connection with the construction or renovation of a state building to provide that, for billing purposes, any service provided by the private design professional that is necessary to satisfy specified requirements of the bill is considered an additional service rather than a basic service.

C.S.H.B. 431 adds provisions to the Education Code to require a building, structure, or other facility to which the provisions apply to be designed and constructed or renovated to achieve certification under a commission-approved high-performance building standard. The bill applies the requirement 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 provisions of the bill.

C.S.H.B. 431 requires that such a building, structure, or facility be designed and constructed or renovated so that it meets the 2009 ASHRAE energy standards or 2009 International Energy Conservation Code in effect on September 1, 2009, or an updated version of those standards or that code adopted by the State Energy Conservation Office, if applicable, and so that it 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.

C.S.H.B. 431 requires a contract between an institution of higher education and a private design professional, relating to services in connection with the construction or renovation of a building, structure, or other higher education facility, to provide that, for billing purposes, any service provided by the private design professional that is necessary to satisfy specified requirements of the bill is considered an additional service, rather than a basic service.

C.S.H.B. 431 makes its provisions applicable 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.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 431 adds provisions not in the original to the Education Code and applying the high-performance building standard to higher education buildings, structures, and facilities, and omits a provision in the original excluding higher-education construction. The substitute, in the case of state buildings, bases its applicability to construction of a building on cost factors, rather than on square footage factors as provided in the original. The substitute differs from the original by requiring a state building to be designed and constructed or renovated so that the building achieves certification under a Texas Facilities Commission building standard that is in conformity with the bill's specifications, so that it also meets energy standards of the American Society of Heating, Refrigeration, and Air Conditioning Engineers, the International Energy Conservation Code, or requirements established by rule of the State Energy Conservation Office, and so that it achieves specified reductions in water use, rather than designed and constructed or renovated so as to be certified under the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) rating system, as in the original.

C.S.H.B. 431 removes provisions in the original requiring the commission to adopt rules for administration of its provisions.

C.S.H.B. 431 add provisions not in the original to require the commission to appoint an advisory committee and setting out responsibilities of that advisory committee.

C.S.H.B. 431 differs from the original by including provisions relating to contracts between the commission and a private design professional or between an institution of higher education and a design professional.

C.S.H.B. 431 removes the provisions in the original requiring a report by the state auditor.

C.S.H.B. 431 adds a provision not in the original that makes its provisions applicable 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, and correspondingly removes a provision from the original that instead provides that the statutory changes apply only to the construction or renovation of a state building for which the contract for design services is entered into on or after September 1, 2009.

C.S.H.B. 431 differs from the original by removing language that applied the LEED high-performance, sustainable design and construction specifications for renovated or new state buildings to a state building larger than 10,000 square feet or to the renovation of such a state building other than a higher-education facility. The substitute differs from the original by removing the commission's requirement to adopt rules to administer the standards, and it removes temporary provisions related to reporting requirements by the state auditor.