

BILL ANALYSIS

Senate Research Center
81R22634 YDB-F

C.S.S.B. 1973
By: Ellis
Government Organization
4/7/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This bill establishes a State Energy Savings Performance Contract Advisory Council (advisory council) intended to help to ensure compliance with applicable state statutes governing contracting requirements, project performance, and independent verification of energy savings, sufficient to repay the loan.

The intent is to provide uniformity and oversight of this special financing of energy management projects for energy improvements in state government, higher education, local government, and school districts. This function is currently provided by four different agencies—the State Energy Conservation Office (SECO) within the Office of the Comptroller of Public Accounts (comptroller's office), the Texas Public Finance Authority, the Bond Review Board, and the Texas Higher Education Coordinating Board—and has resulted in duplicative, inconsistent, and sometimes ineffective management and controls, according to a report by the State Auditor's Office.

C.S.S.B. 1973 establishes an advisory council within the comptroller's office to advise and assist the comptroller, state agencies, and institutions of higher education on optimizing energy savings through energy savings performance contracts. The bill requires the advisory council to send a report to the governor and legislature every two years on the savings or lack of savings of all energy savings performance contracts; fulfillment of individual state agency energy savings reduction goals; a statement from each agency and higher education that includes a summary of the savings and operational performance; a statement that the savings guarantee is not being met; and a statement on the impact on the agency's utility funding and on student fees and tuition for higher education.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle D, Title 10, Government Code, by adding Chapter 2178, as follows:

CHAPTER 2178. STATE ENERGY SAVINGS PERFORMANCE CONTRACT ADVISORY COUNCIL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2178.001. DEFINITIONS. Defines "advisory council," "energy savings," "energy savings performance contract," "institution of higher education," and "state agency."

Sec. 2178.002. ADMINISTRATIVELY ATTACHED TO COMPTROLLER'S OFFICE. Provides that the state energy savings performance contract advisory council (advisory council) is administratively attached to the Office of the Comptroller of Public Accounts (comptroller). Requires the comptroller to provide the staff and facilities necessary to assist the advisory council in performing its duties.

[Reserves Sections 2178.003-2178.050 for expansion.]

SUBCHAPTER B. ADVISORY COUNCIL

Sec. 2178.051. ESTABLISHMENT OF ADVISORY COUNCIL. (a) Requires the comptroller to establish the advisory council as an independent council separate from the State Energy Conservation Office (SECO).

(b) Provides that Chapter 2110 (State Agency Advisory Committees) does not apply to the advisory council.

Sec. 2178.052. APPOINTMENT OF ADVISORY COUNCIL MEMBERS. (a) Requires the comptroller to appoint the members of the advisory council. Sets forth the required members of the advisory council.

(b) Provides that the advisory council members serve four-year terms. Authorizes an advisory council member to be reappointed for a second term.

(c) Requires the comptroller, not later than the 90th day after the date the comptroller receives notice of a member's resignation, to fill the vacancy on the advisory council.

Sec. 2178.053. PRESIDING OFFICER. Requires the members of the advisory council by majority vote to appoint a presiding officer.

Sec. 2178.054. COMPENSATION AND REIMBURSEMENT. Provides that an advisory council member is not entitled to compensation or reimbursement of travel expenses for serving on the council.

Sec. 2178.055. MEETINGS. Requires the advisory council to meet at the call of the presiding officer or comptroller.

[Reserves Sections 2178.056-2178.100 for expansion.]

SUBCHAPTER C. DUTIES OF ADVISORY COUNCIL

Sec. 2178.101. GENERAL DUTIES. Requires the advisory council to advise the comptroller, state agencies, and institutions of higher education with regard to optimizing energy savings, complying with the requirements for energy savings performance contracts, verifying energy savings, and overseeing contracts for energy services and energy conservation measures under performance contracts that guarantee savings.

Sec. 2178.102. BEST PRACTICES. (a) Requires the advisory council to identify strategies for state agencies and institutions of higher education to use in measuring and verifying savings from energy, water, improved operations and maintenance, retro-commissioning, renewable energy, and cogeneration projects implemented through energy savings performance contracts.

(b) Requires the advisory council to base the strategies identified under Subsection (a) on certain best practices identified by other entities.

Sec. 2178.103. REPORTS. (a) Requires the advisory council, not later than January 1 of each odd-numbered year, to submit a report to the governor and both houses of the legislature on the savings or lack of savings of all energy savings performance contracts entered into by a state agency or an institution of higher education during the preceding two years and on the performance of contractors under the contracts, and the fulfillment of state agency energy savings reduction goals under Section 2166.406 (Energy Savings Performance Contracts) and of institutions of higher education energy savings reduction goals under Section 51.927 (Energy Savings Performance Contracts), Education Code.

(b) Authorizes the report required under Subsection (a) to also contain recommendations for increased savings by state agencies and institutions of

higher education, including the use of energy savings performance contracts and other forms of financing.

(c) Requires each state agency and institution of higher education to provide to the advisory council adequate, timely information necessary to prepare the report.

(d) Requires each state agency and institution of higher education to provide to the advisory council a list of all energy savings performance contracts that includes a summary of the savings and operational performance under the contract; a statement that the savings guarantee is or is not being met annually; a statement on the impact of the contract for a state agency, on the agency's request to the legislature for utility funding; or for institutions of higher education, on student fees and tuition.

SECTION 2. Amends Section 2166.406, Government Code, by adding Subsection (k) to require that an energy savings performance contract comply with any requirements established under Chapter 2178.

SECTION 3. Amends Section 51.927, Education Code, by adding Subsection (k) to require that an energy savings performance contract comply with any requirements established under Chapter 2178, Government Code.

SECTION 4. Requires the comptroller, as soon as practicable after the effective date of this Act, to appoint members to the advisory council.

SECTION 5. Effective date: upon passage or September 1, 2009.