

By: Madden

H.B. No. 3567

A BILL TO BE ENTITLED

AN ACT

relating to energy savings performance contracts.

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

SECTION 1. Section 2166.406, Government Code, is amended by amending Subsection (i) and adding Subsections (i-1), (i-2), (i-3), (i-4), and (i-5) to read as follows:

(i) An energy savings performance contract shall be let according to the procedures established for procuring certain professional services by Section 2254.004. Notice of the request for qualifications shall be given in the manner provided by Section 2156.002.

(i-1) The State Energy Conservation Office shall establish guidelines and an approval process for awarding energy savings performance contracts. The guidelines adopted under this subsection must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who:

(1) has a minimum of three years of experience in energy calculation and review;

(2) [ ] is not an officer or employee of an offeror for the contract under review; [ ] and

(3) is not otherwise associated with the contract.

(i-2) In conducting the review required under Subsection (i-1), the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and

1 calculations related to cost savings, increases in revenue, and, if  
2 applicable, efficiency or accuracy of metering equipment. An  
3 engineer who reviews a contract shall maintain the confidentiality  
4 of any proprietary information the engineer acquires while  
5 reviewing the contract.

6 (i-3) An energy savings performance contract may not be  
7 entered into unless the contract has been approved by the State  
8 Energy Conservation Office. Sections 1001.053 and 1001.407,  
9 Occupations Code, apply to work performed under the contract.

10 (i-4) Before approving an energy savings performance  
11 contract as required under Subsection (i-3), the State Energy  
12 Conservation Office shall require the offeror to use equipment  
13 designed to verify the energy resource savings and require that  
14 measurement and verification fees be expressly provided in the  
15 contract.

16 (i-5) The State Energy Conservation Office, in consultation  
17 with the Texas Higher Education Coordinating Board, shall establish  
18 and maintain an approved list of third-party audit engineers to  
19 comply with Subsection (i-1) and other audits required by state  
20 law.

21 SECTION 2. Section 2166.406, Government Code, as amended by  
22 this Act, applies only to an energy savings performance contract  
23 entered into on or after the effective date of this Act.

24 SECTION 3. This Act takes effect September 1, 2009.