

By: Ellis

S.B. No. 1973

A BILL TO BE ENTITLED

AN ACT

relating to the creation and duties of the state energy savings performance contract advisory council.

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

SECTION 1. Subtitle D, Title 10, Government Code, is amended by adding Chapter 2178 to read as follows:

CHAPTER 2178. STATE ENERGY SAVINGS PERFORMANCE CONTRACT

ADVISORY COUNCIL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2178.001. DEFINITIONS. In this chapter:

(1) "Advisory council" means the state energy savings performance contract advisory council.

(2) "Energy savings" means an estimated reduction in net fuel costs, energy costs, water costs, storm-water fees, other utility costs, or related net operating costs from, or as compared to, an established baseline of those costs. The term does not include an estimated reduction due to a decrease in energy rates that is not derived from increased conservation or reduced usage.

(3) "Energy savings performance contract" means a contract between a state agency or an institution of higher education and a provider for energy or water conservation or usage measures in which the estimated energy savings, increase in billable revenues, or increase in meter accuracy resulting from the measures is subject to guarantee to offset the cost of the energy or

1 water conservation or usage measures over a specified period. The  
2 term includes a contract for the installation or implementation of  
3 the following, including all causally connected work:

4 (A) insulation of a building structure and  
5 systems within the building;

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

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

12 (D) heating, ventilating, or air-conditioning  
13 system modifications or replacements that reduce energy or water  
14 consumption;

15 (E) lighting fixtures that increase energy  
16 efficiency;

17 (F) energy recovery systems;

18 (G) electric systems improvements;

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

22 (I) water-conserving landscape irrigation  
23 equipment;

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

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

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

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

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

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

12           (N) metering or related equipment or systems that  
13 improve the accuracy of billable-revenue-generation systems; or

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

18           (4) "Institution of higher education" has the meaning  
19 assigned by Section 61.003, Education Code.

20           (5) "State agency" means an office, department,  
21 commission, or board of any branch of state government.

22           Sec. 2178.002. ADMINISTRATIVELY ATTACHED TO COMPTROLLER'S  
23 OFFICE. The advisory council is administratively attached to the  
24 comptroller's office. The comptroller shall provide the staff and  
25 facilities necessary to assist the advisory council in performing  
26 its duties.

27           [Sections 2178.003-2178.050 reserved for expansion]

1                   SUBCHAPTER B. ADVISORY COUNCIL

2           Sec. 2178.051. ESTABLISHMENT OF ADVISORY COUNCIL. (a) The  
3 comptroller shall establish the state energy savings performance  
4 contract advisory council as an independent council separate from  
5 the state energy conservation office.

6           (b) Chapter 2110 does not apply to the advisory council.

7           Sec. 2178.052. APPOINTMENT OF ADVISORY COUNCIL MEMBERS.

8 (a) The comptroller shall appoint the members of the advisory  
9 council. The advisory council must include:

10           (1) at least one representative from each of the  
11 following:

12                   (A) an institution of higher education;

13                   (B) a state agency, other than an agency already  
14 represented on the advisory council;

15                   (C) the state energy conservation office;

16                   (D) the Texas Higher Education Coordinating  
17 Board;

18                   (E) the Bond Review Board;

19                   (F) the Texas Public Finance Authority;

20                   (G) the attorney general's office;

21                   (H) the Texas Water Development Board; and

22                   (I) the Texas Engineering Experiment Station;

23           (2) a licensed professional mechanical engineer, who  
24 is licensed in this state and is proficient in monitoring and  
25 verification techniques; and

26           (3) a representative from the energy savings  
27 performance contract industry.

1       (b) The advisory council members serve four-year terms. An  
2 advisory council member may be reappointed for a second term.

3       (c) Not later than the 90th day after the date the  
4 comptroller receives notice of a member's resignation, the  
5 comptroller shall fill the vacancy on the advisory council.

6       Sec. 2178.053. PRESIDING OFFICER. The members of the  
7 advisory council by majority vote shall appoint a presiding  
8 officer.

9       Sec. 2178.054. COMPENSATION AND REIMBURSEMENT. An advisory  
10 council member is not entitled to compensation or reimbursement of  
11 travel expenses for serving on the council.

12       Sec. 2178.055. MEETINGS. The advisory council shall meet  
13 at the call of the presiding officer or comptroller.

14       [Sections 2178.056-2178.100 reserved for expansion]

15               SUBCHAPTER C. DUTIES OF ADVISORY COUNCIL

16       Sec. 2178.101. GENERAL DUTIES. The advisory council shall  
17 advise the comptroller, state agencies, and institutions of higher  
18 education with regard to:

- 19               (1) optimizing energy savings;  
20               (2) complying with the requirements for energy savings  
21 performance contracts;  
22               (3) verifying energy savings; and  
23               (4) overseeing contracts for energy services and  
24 energy conservation measures under performance contracts that  
25 guarantee savings.

26       Sec. 2178.102. BEST PRACTICES. (a) The advisory council  
27 shall identify strategies for state agencies and institutions of

1 higher education to use in measuring and verifying savings from  
2 energy, water, improved operations and maintenance,  
3 retro-commissioning, renewable energy, and cogeneration projects  
4 implemented through energy savings performance contracts.

5 (b) The advisory council shall base the strategies  
6 identified under Subsection (a) on best practices identified by  
7 other entities, including:

8 (1) ASHRAE Guideline 14: Measurement of Energy and  
9 Demand Savings;

10 (2) the International Performance Measurement and  
11 Verification Protocol; and

12 (3) the Federal Energy Management Program Guidelines  
13 for Measurement and Verification for Federal Energy Management  
14 Projects.

15 Sec. 2178.103. REPORTS. (a) Not later than January 1 of  
16 each odd-numbered year, the advisory council shall submit a report  
17 to the governor and both houses of the legislature on:

18 (1) the savings or lack of savings of all energy  
19 savings performance contracts entered into by a state agency or an  
20 institution of higher education during the preceding two years and  
21 on the performance of contractors under the contracts; and

22 (2) the fulfillment of state agency energy savings  
23 reduction goals under Section 2166.406 of this code and of  
24 institutions of higher education energy savings reduction goals  
25 under Section 51.927, Education Code.

26 (b) The report required under Subsection (a) may also  
27 contain recommendations for increased savings by state agencies and

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

3 (c) Each state agency and institution of higher education  
4 shall provide to the advisory council adequate, timely information  
5 necessary to prepare the report.

6 (d) Each state agency and institution of higher education  
7 shall provide to the advisory council a list of all energy savings  
8 performance contracts that includes:

9 (1) a summary of the savings and operational  
10 performance under the contract;

11 (2) a statement that the savings guarantee is or is not  
12 being met annually; and

13 (3) a statement on the impact of the contract:

14 (A) for a state agency, on the agency's request  
15 to the legislature for utility funding; or

16 (B) for institutions of higher education, on  
17 student fees and tuition.

18 SECTION 2. Section 2166.406, Government Code, is amended by  
19 adding Subsection (k) to read as follows:

20 (k) An energy savings performance contract must comply with  
21 any requirements established under Chapter 2178.

22 SECTION 3. Section 51.927, Education Code, is amended by  
23 adding Subsection (k) to read as follows:

24 (k) An energy savings performance contract must comply with  
25 any requirements established under Chapter 2178, Government Code.

26 SECTION 4. As soon as practicable after the effective date  
27 of this Act, the comptroller of public accounts shall appoint

1 members to the state energy savings performance contract advisory  
2 council.

3         SECTION 5. This Act takes effect immediately if it receives  
4 a vote of two-thirds of all the members elected to each house, as  
5 provided by Section 39, Article III, Texas Constitution. If this  
6 Act does not receive the vote necessary for immediate effect, this  
7 Act takes effect September 1, 2009.