

1-1 By: Ellis S.B. No. 1973
1-2 (In the Senate - Filed March 12, 2009; March 24, 2009, read
1-3 first time and referred to Committee on Government Organization;
1-4 April 7, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 7, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1973 By: Ellis

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the creation and duties of the state energy savings
1-11 performance contract advisory council.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-13 SECTION 1. Subtitle D, Title 10, Government Code, is
1-14 amended by adding Chapter 2178 to read as follows:

1-15 CHAPTER 2178. STATE ENERGY SAVINGS PERFORMANCE CONTRACT
1-16 ADVISORY COUNCIL

1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 2178.001. DEFINITIONS. In this chapter:

1-19 (1) "Advisory council" means the state energy savings
1-20 performance contract advisory council.

1-21 (2) "Energy savings" means an estimated reduction in
1-22 net fuel costs, energy costs, water costs, storm-water fees, other
1-23 utility costs, or related net operating costs from, or as compared
1-24 to, an established baseline of those costs. The term does not
1-25 include an estimated reduction due to a decrease in energy rates
1-26 that is not derived from increased conservation or reduced usage.

1-27 (3) "Energy savings performance contract" means a
1-28 contract between a state agency or an institution of higher
1-29 education and a provider for energy or water conservation or usage
1-30 measures in which the estimated energy savings, increase in
1-31 billable revenues, or increase in meter accuracy resulting from the
1-32 measures is subject to guarantee to offset the cost of the energy or
1-33 water conservation or usage measures over a specified period. The
1-34 term includes a contract for the installation or implementation of
1-35 the following, including all causally connected work:

1-36 (A) insulation of a building structure and
1-37 systems within the building;

1-38 (B) storm windows or doors, caulking or weather
1-39 stripping, multiglazed windows or doors, heat-absorbing or
1-40 heat-reflective glazed and coated window or door systems, or other
1-41 window or door system modifications that reduce energy consumption;

1-42 (C) automatic energy control systems, including
1-43 computer software and technical data licenses;

1-44 (D) heating, ventilating, or air-conditioning
1-45 system modifications or replacements that reduce energy or water
1-46 consumption;

1-47 (E) lighting fixtures that increase energy
1-48 efficiency;

1-49 (F) energy recovery systems;

1-50 (G) electric systems improvements;

1-51 (H) water-conserving fixtures, appliances, and
1-52 equipment or the substitution of non-water-using fixtures,
1-53 appliances, and equipment;

1-54 (I) water-conserving landscape irrigation
1-55 equipment;

1-56 (J) landscaping measures that reduce watering
1-57 demands and capture and hold applied water and rainfall, including:

1-58 (i) landscape contouring, including the use
1-59 of berms, swales, and terraces; and

1-60 (ii) the use of soil amendments that
1-61 increase the water-holding capacity of the soil, including compost;

1-62 (K) rainwater harvesting equipment and equipment
1-63 to make use of water collected as part of a storm-water system
1-64 installed for water quality control;

1-65 (L) equipment for recycling or reuse of water
1-66 originating on the premises or from other sources, including

2-1 treated municipal effluent;
 2-2 (M) equipment needed to capture water from
 2-3 nonconventional, alternate sources, including air-conditioning
 2-4 condensate or graywater, for nonpotable uses;
 2-5 (N) metering or related equipment or systems that
 2-6 improve the accuracy of billable-revenue-generation systems; or
 2-7 (O) other energy or water conservation-related
 2-8 improvements or equipment, including improvements or equipment
 2-9 relating to renewable energy or nonconventional water sources or
 2-10 water reuse.
 2-11 (4) "Institution of higher education" has the meaning
 2-12 assigned by Section 61.003, Education Code.
 2-13 (5) "State agency" means an office, department,
 2-14 commission, or board of any branch of state government.
 2-15 Sec. 2178.002. ADMINISTRATIVELY ATTACHED TO COMPTROLLER'S
 2-16 OFFICE. The advisory council is administratively attached to the
 2-17 comptroller's office. The comptroller shall provide the staff and
 2-18 facilities necessary to assist the advisory council in performing
 2-19 its duties.
 2-20 [Sections 2178.003-2178.050 reserved for expansion]
 2-21 SUBCHAPTER B. ADVISORY COUNCIL
 2-22 Sec. 2178.051. ESTABLISHMENT OF ADVISORY COUNCIL. (a) The
 2-23 comptroller shall establish the state energy savings performance
 2-24 contract advisory council as an independent council separate from
 2-25 the state energy conservation office.
 2-26 (b) Chapter 2110 does not apply to the advisory council.
 2-27 Sec. 2178.052. APPOINTMENT OF ADVISORY COUNCIL MEMBERS.
 2-28 (a) The comptroller shall appoint the members of the advisory
 2-29 council. The advisory council must include:
 2-30 (1) at least one representative from each of the
 2-31 following:
 2-32 (A) an institution of higher education;
 2-33 (B) a state agency, other than an agency already
 2-34 represented on the advisory council;
 2-35 (C) the state energy conservation office;
 2-36 (D) the Texas Higher Education Coordinating
 2-37 Board;
 2-38 (E) the Bond Review Board;
 2-39 (F) the Texas Public Finance Authority;
 2-40 (G) the attorney general's office;
 2-41 (H) the Texas Water Development Board; and
 2-42 (I) the Texas Engineering Experiment Station;
 2-43 (2) a licensed professional mechanical engineer, who
 2-44 is licensed in this state and is proficient in monitoring and
 2-45 verification techniques; and
 2-46 (3) a representative from the energy savings
 2-47 performance contract industry.
 2-48 (b) The advisory council members serve four-year terms. An
 2-49 advisory council member may be reappointed for a second term.
 2-50 (c) Not later than the 90th day after the date the
 2-51 comptroller receives notice of a member's resignation, the
 2-52 comptroller shall fill the vacancy on the advisory council.
 2-53 Sec. 2178.053. PRESIDING OFFICER. The members of the
 2-54 advisory council by majority vote shall appoint a presiding
 2-55 officer.
 2-56 Sec. 2178.054. COMPENSATION AND REIMBURSEMENT. An advisory
 2-57 council member is not entitled to compensation or reimbursement of
 2-58 travel expenses for serving on the council.
 2-59 Sec. 2178.055. MEETINGS. The advisory council shall meet
 2-60 at the call of the presiding officer or comptroller.
 2-61 [Sections 2178.056-2178.100 reserved for expansion]
 2-62 SUBCHAPTER C. DUTIES OF ADVISORY COUNCIL
 2-63 Sec. 2178.101. GENERAL DUTIES. The advisory council shall
 2-64 advise the comptroller, state agencies, and institutions of higher
 2-65 education with regard to:
 2-66 (1) optimizing energy savings;
 2-67 (2) complying with the requirements for energy savings
 2-68 performance contracts;
 2-69 (3) verifying energy savings; and
 2-70 (4) overseeing contracts for energy services and
 2-71 energy conservation measures under performance contracts that

3-1 guarantee savings.
3-2 Sec. 2178.102. BEST PRACTICES. (a) The advisory council
3-3 shall identify strategies for state agencies and institutions of
3-4 higher education to use in measuring and verifying savings from
3-5 energy, water, improved operations and maintenance,
3-6 retro-commissioning, renewable energy, and cogeneration projects
3-7 implemented through energy savings performance contracts.

3-8 (b) The advisory council shall base the strategies
3-9 identified under Subsection (a) on best practices identified by
3-10 other entities, including:

3-11 (1) ASHRAE Guideline 14: Measurement of Energy and
3-12 Demand Savings;

3-13 (2) the International Performance Measurement and
3-14 Verification Protocol; and

3-15 (3) the Federal Energy Management Program Guidelines
3-16 for Measurement and Verification for Federal Energy Management
3-17 Projects.

3-18 Sec. 2178.103. REPORTS. (a) Not later than January 1 of
3-19 each odd-numbered year, the advisory council shall submit a report
3-20 to the governor and both houses of the legislature on:

3-21 (1) the savings or lack of savings of all energy
3-22 savings performance contracts entered into by a state agency or an
3-23 institution of higher education during the preceding two years and
3-24 on the performance of contractors under the contracts; and

3-25 (2) the fulfillment of state agency energy savings
3-26 reduction goals under Section 2166.406 of this code and of
3-27 institutions of higher education energy savings reduction goals
3-28 under Section 51.927, Education Code.

3-29 (b) The report required under Subsection (a) may also
3-30 contain recommendations for increased savings by state agencies and
3-31 institutions of higher education, including the use of energy
3-32 savings performance contracts and other forms of financing.

3-33 (c) Each state agency and institution of higher education
3-34 shall provide to the advisory council adequate, timely information
3-35 necessary to prepare the report.

3-36 (d) Each state agency and institution of higher education
3-37 shall provide to the advisory council a list of all energy savings
3-38 performance contracts that includes:

3-39 (1) a summary of the savings and operational
3-40 performance under the contract;

3-41 (2) a statement that the savings guarantee is or is not
3-42 being met annually; and

3-43 (3) a statement on the impact of the contract:

3-44 (A) for a state agency, on the agency's request
3-45 to the legislature for utility funding; or

3-46 (B) for institutions of higher education, on
3-47 student fees and tuition.

3-48 SECTION 2. Section 2166.406, Government Code, is amended by
3-49 adding Subsection (k) to read as follows:

3-50 (k) An energy savings performance contract must comply with
3-51 any requirements established under Chapter 2178.

3-52 SECTION 3. Section 51.927, Education Code, is amended by
3-53 adding Subsection (k) to read as follows:

3-54 (k) An energy savings performance contract must comply with
3-55 any requirements established under Chapter 2178, Government Code.

3-56 SECTION 4. As soon as practicable after the effective date
3-57 of this Act, the comptroller of public accounts shall appoint
3-58 members to the state energy savings performance contract advisory
3-59 council.

3-60 SECTION 5. This Act takes effect immediately if it receives
3-61 a vote of two-thirds of all the members elected to each house, as
3-62 provided by Section 39, Article III, Texas Constitution. If this
3-63 Act does not receive the vote necessary for immediate effect, this
3-64 Act takes effect September 1, 2009.

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