AN ACT

relating to energy efficiency standards for certain buildings and to high-performance design, construction, and renovation standards for certain buildings and facilities of institutions of higher education.

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

SECTION 1. Subchapter B, Chapter 55, Education Code, is amended by adding Section 55.115 to read as follows:

Sec. 55.115. HIGH-PERFORMANCE, SUSTAINABLE DESIGN, CONSTRUCTION, AND RENOVATION STANDARDS FOR CERTAIN FACILITIES. (a) This section applies 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 $2 million, or, if less than $2 million, more than 50 percent of the value of the building, structure, or other facility, if any part of the construction or renovation is financed by revenue bonds issued under this subchapter.

(b) A building, structure, or other facility to which this section applies must be designed and constructed or renovated so that the building, structure, or other facility complies with high-performance building standards, approved by the board of regents of the institution, that provide minimum requirements for energy use, natural resources use, and indoor air quality. In approving high-performance building standards, a board of regents

shall consider, but is not subject to, the high-performance building evaluation system approved by the state energy conservation office under Section 447.004, Government Code, and may solicit and consider recommendations from the advisory committee appointed under that section.

(c) Except as provided by this section, a building, structure, or other facility to which this section applies must be designed and constructed or renovated to comply with the applicable energy and water conservation design standards established by the state energy conservation office under Section 447.004, Government Code, unless the institution constructing the building determines that compliance with those standards is impractical and notifies the state energy conservation office of the determination and provides to the office documentation supporting the determination.

SECTION 2. Section 447.004, Government Code, is amended by amending Subsection (b) and adding Subsections (b-1), (b-2), and (b-3) to read as follows:

(b) The standards established under Subsection (a) must:

(1) include performance and procedural standards for the maximum energy and water conservation allowed by the latest and most cost-effective technology that is consistent with the requirements of public health, safety, and economic resources;

(2) be stated in terms of energy and water consumption levels that meet energy standards adopted by the state energy conservation office and that:

(A) achieve 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 (Pub. L. No. 102-486); or

(B) comply with water conservation standards published by the state energy conservation office;

(3) consider the various types of building uses; and

(4) allow for design flexibility, including allowing for certification under any high-performance design evaluation system approved by the state energy conservation office.

(b-1) A building to which this section applies must be designed and constructed or renovated so that the building achieves certification under any high-performance design evaluation system approved by the state energy conservation office that:

(1) is developed and revised through a nationally recognized consensus-based process or by a municipally owned utility in this state;

(2) provides minimum requirements for energy use, natural resources use, and indoor air quality;

(3) requires substantiating documentation for certification;

(4) requires on-site, third-party, post-construction review and verification for certification, or a third-party, post-construction, rigorous review of documentation and verification for certification; and

(5) encourages the use of materials or products manufactured or produced in this state.

(b-2) The state energy conservation office shall appoint an advisory committee to advise the office in selecting one or more

high-performance building design evaluation systems to approve for use under Subsection (b-1). At least once every two years, the advisory committee shall review available high-performance building standards and make recommendations to the office. The advisory committee consists of:

(1) one individual appointed by the comptroller who represents the state energy conservation office and who serves as the presiding officer of the committee;

(2) eight individuals with experience and expertise in high-performance buildings or related products, including experience and expertise in energy efficiency, water efficiency, or low-impact site development, with one individual selected from each of the following lists of nominees:

(A) a list submitted by the president of the Texas Society of Architects;

(B) a list submitted by the presidents of the Texas Council of Engineering Companies and Texas Society of Professional Engineers;

(C) a list submitted by the president of the Associated Builders and Contractors of Texas and the presiding officer of the executive committee of the Associated General Contractors, Texas Building Branch;

(D) a list submitted by the president of the Texas chapter of the American Society of Landscape Architects;

(E) a list submitted by the president of the Texas Chemical Council;

(F) a list submitted by the Texas State Building

and Construction Trades Council;

(G) a list submitted by the president of the Texas chapter of the Urban Land Institute; and

(H) a list submitted by the chair of the Brick Industry Association;

(3) the director of facilities construction and space management appointed under Section 2152.104;

(4) one individual representing the Energy Systems Laboratory of the Texas Engineering Experiment Station of The Texas A&M University System;

(5) one individual representing a state agency that has a substantial ongoing construction program; and

(6) one individual representing the interests of historically underutilized businesses.

(b-3) A contract between a state agency and a private design professional relating to services in connection with the construction or renovation of a building to which this section applies must provide that, for billing purposes, any service provided by the private design professional that is necessary to satisfy the certification requirements of Subsection (b-1) is considered an additional service rather than a basic service. A governmental entity may not disallow the allocation of federal deductions to eligible design professionals authorized by the Energy Policy Act of 2005 (Pub. L. No. 109-58).

SECTION 3. Sections 388.003(c) and (e), Health and Safety Code, are amended to read as follows:

(c) A municipality shall establish procedures:

(1) for the administration and enforcement of the codes; [~~and~~]

(2) to ensure that code-certified inspectors shall perform inspections and enforce the code in the inspectors' jurisdictions; and

(3) to track and report to the state energy conservation office on implementation of the codes.

(e) Local amendments may not result in less stringent energy efficiency requirements in nonattainment areas and in affected counties than the energy efficiency chapter of the International Residential Code or International Energy Conservation Code. Local amendments must comply with the National Appliance Energy Conservation Act of 1987 (42 U.S.C. Sections 6291-6309), as amended. The laboratory, at the request of a municipality or county, shall determine the relative impact of proposed local amendments to an energy code, including whether proposed amendments are substantially equal to or less stringent than the unamended code. For the purpose of establishing uniform requirements throughout a region, and on request of a council of governments, a county, or a municipality, the laboratory may recommend a climatically appropriate modification or a climate zone designation for a county or group of counties that is different from the climate zone designation in the unamended code. The laboratory shall:

(1) report its findings to the council, county, or municipality, including an estimate of any energy savings potential above the unamended [~~base~~] code from local amendments; and

(2) annually submit a report to the commission:

(A) identifying the municipalities and counties whose codes are more stringent than the unamended code, and whose codes are equally stringent or less stringent than the unamended code; and

(B) quantifying energy savings and emissions reductions from this program for consideration in the state implementation plan for emissions reduction credit.

SECTION 4. Section 388.007, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The laboratory may provide local jurisdictions with technical assistance concerning implementation and enforcement of the International Energy Conservation Code and the energy efficiency chapter of the International Residential Code, including local amendments to those codes.

(d) The laboratory may conduct outreach to the real estate industry, including real estate agents, home builders, remodelers, appraisers, and financial institutions, on the value of energy code compliance and verified, above-code, high-performance construction.

SECTION 5. Section 55.115, Education Code, as added by this Act, and Section 447.004, Government Code, as amended by this Act, apply 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, 2013.

SECTION 6. This Act takes effect September 1, 2011.

President of the Senate

Speaker of the House

I certify that H.B. No. 51 was passed by the House on May 13, 2011, by the following vote: Yeas 97, Nays 33, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 51 on May 27, 2011, by the following vote: Yeas 86, Nays 53, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 51 was passed by the Senate, with amendments, on May 25, 2011, by the following vote: Yeas 27, Nays 4.

Secretary of the Senate

APPROVED: _____

Date

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Governor