

1-1 By: Lucio III, Cook, et al. H.B. No. 51
1-2 (Senate Sponsor - Hinojosa)
1-3 (In the Senate - Received from the House May 16, 2011;
1-4 May 17, 2011, read first time and referred to Committee on Natural
1-5 Resources; May 24, 2011, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 7, Nays 1;
1-7 May 24, 2011, sent to printer.)

1-8 COMMITTEE SUBSTITUTE FOR H.B. No. 51 By: Seliger

1-9 A BILL TO BE ENTITLED
1-10 AN ACT

1-11 relating to energy efficiency standards for certain buildings and
1-12 to high-performance design, construction, and renovation standards
1-13 for certain buildings and facilities of institutions of higher
1-14 education.

1-15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-16 SECTION 1. Subchapter B, Chapter 55, Education Code, is
1-17 amended by adding Section 55.115 to read as follows:

1-18 Sec. 55.115. HIGH-PERFORMANCE, SUSTAINABLE DESIGN,
1-19 CONSTRUCTION, AND RENOVATION STANDARDS FOR CERTAIN FACILITIES. (a)
1-20 This section applies to the construction of an institution of
1-21 higher education building, structure, or other facility, or the
1-22 renovation of a building, structure, or other facility the cost of
1-23 which is more than \$2 million, or, if less than \$2 million, more
1-24 than 50 percent of the value of the building, structure, or other
1-25 facility, if any part of the construction or renovation is financed
1-26 by revenue bonds issued under this subchapter.

1-27 (b) A building, structure, or other facility to which this
1-28 section applies must be designed and constructed or renovated so
1-29 that the building, structure, or other facility complies with
1-30 high-performance building standards, approved by the board of
1-31 regents of the institution, that provide minimum requirements for
1-32 energy use, natural resources use, and indoor air quality. In
1-33 approving high-performance building standards, a board of regents
1-34 shall consider, but is not subject to, the high-performance
1-35 building evaluation system approved by the state energy
1-36 conservation office under Section 447.004, Government Code, and may
1-37 solicit and consider recommendations from the advisory committee
1-38 appointed under that section.

1-39 (c) A building, structure, or other facility to which this
1-40 section applies must be designed and constructed or renovated to
1-41 comply with the applicable energy and water conservation design
1-42 standards established by the state energy conservation office under
1-43 Section 447.004, Government Code.

1-44 (d) This section does not apply to an institution of higher
1-45 education that constructs or renovates a building, structure, or
1-46 other facility if the institution:

1-47 (1) determines that compliance with the standards
1-48 described by Subsection (b) is impractical;

1-49 (2) notifies the state energy conservation office of
1-50 the determination; and

1-51 (3) provides documentation supporting the
1-52 determination under Subdivision (1) to the state energy
1-53 conservation office.

1-54 SECTION 2. Section 447.004, Government Code, is amended by
1-55 amending Subsection (b) and adding Subsections (b-1), (b-2), and
1-56 (b-3) to read as follows:

1-57 (b) The standards established under Subsection (a) must:

1-58 (1) include performance and procedural standards for
1-59 the maximum energy and water conservation allowed by the latest and
1-60 most cost-effective technology that is consistent with the
1-61 requirements of public health, safety, and economic resources;

1-62 (2) be stated in terms of energy and water consumption
1-63 levels that meet energy standards adopted by the state energy

2-1 conservation office and that:
2-2 (A) achieve a 15 percent reduction in water use
2-3 when compared to water use based on plumbing fixtures selected in
2-4 accordance with the Energy Policy Act of 1992 (Pub. L. No. 102-486);
2-5 or
2-6 (B) comply with water conservation standards
2-7 published by the state energy conservation office;
2-8 (3) consider the various types of building uses; and
2-9 (4) allow for design flexibility, including allowing
2-10 for certification under any high-performance design evaluation
2-11 system approved by the state energy conservation office.
2-12 (b-1) A building to which this section applies must be
2-13 designed and constructed or renovated so that the building achieves
2-14 certification under any high-performance design evaluation system
2-15 approved by the state energy conservation office that:
2-16 (1) is developed and revised through a nationally
2-17 recognized consensus-based process or by a municipally owned
2-18 utility in this state;
2-19 (2) provides minimum requirements for energy use,
2-20 natural resources use, and indoor air quality;
2-21 (3) requires substantiating documentation for
2-22 certification;
2-23 (4) requires on-site, third-party, post-construction
2-24 review and verification for certification, or a third-party,
2-25 post-construction, rigorous review of documentation and
2-26 verification for certification; and
2-27 (5) encourages the use of materials or products
2-28 manufactured or produced in this state.
2-29 (b-2) The state energy conservation office shall appoint an
2-30 advisory committee to advise the office in selecting one or more
2-31 high-performance building design evaluation systems to approve for
2-32 use under Subsection (b-1). At least once every two years, the
2-33 advisory committee shall review available high-performance
2-34 building standards and make recommendations to the office. The
2-35 advisory committee consists of:
2-36 (1) one individual appointed by the comptroller who
2-37 represents the state energy conservation office and who serves as
2-38 the presiding officer of the committee;
2-39 (2) eight individuals with experience and expertise in
2-40 high-performance buildings or related products, including
2-41 experience and expertise in energy efficiency, water efficiency, or
2-42 low-impact site development, with one individual selected from each
2-43 of the following lists of nominees:
2-44 (A) a list submitted by the president of the
2-45 Texas Society of Architects;
2-46 (B) a list submitted by the presidents of the
2-47 Texas Council of Engineering Companies and Texas Society of
2-48 Professional Engineers;
2-49 (C) a list submitted by the president of the
2-50 Associated Builders and Contractors of Texas and the presiding
2-51 officer of the executive committee of the Associated General
2-52 Contractors, Texas Building Branch;
2-53 (D) a list submitted by the president of the
2-54 Texas chapter of the American Society of Landscape Architects;
2-55 (E) a list submitted by the president of the
2-56 Texas Chemical Council;
2-57 (F) a list submitted by the Texas State Building
2-58 and Construction Trades Council;
2-59 (G) a list submitted by the president of the
2-60 Texas chapter of the Urban Land Institute; and
2-61 (H) a list submitted by the chair of the Brick
2-62 Industry Association;
2-63 (3) the director of facilities construction and space
2-64 management appointed under Section 2152.104;
2-65 (4) one individual representing the Energy Systems
2-66 Laboratory of the Texas Engineering Experiment Station of The Texas
2-67 A&M University System;
2-68 (5) one individual representing a state agency that
2-69 has a substantial ongoing construction program; and

3-1 (6) one individual representing the interests of
 3-2 historically underutilized businesses.

3-3 (b-3) A contract between a state agency and a private design
 3-4 professional relating to services in connection with the
 3-5 construction or renovation of a building to which this section
 3-6 applies must provide that, for billing purposes, any service
 3-7 provided by the private design professional that is necessary to
 3-8 satisfy the certification requirements of Subsection (b-1) is
 3-9 considered an additional service rather than a basic service. A
 3-10 governmental entity may not disallow the allocation of federal
 3-11 deductions to eligible design professionals authorized by the
 3-12 Energy Policy Act of 2005 (Pub. L. No. 109-58).

3-13 SECTION 3. Sections 388.003(c) and (e), Health and Safety
 3-14 Code, are amended to read as follows:

3-15 (c) A municipality shall establish procedures:

3-16 (1) for the administration and enforcement of the
 3-17 codes; ~~and~~

3-18 (2) to ensure that code-certified inspectors shall
 3-19 perform inspections and enforce the code in the inspectors'
 3-20 jurisdictions; and

3-21 (3) to track and report to the state energy
 3-22 conservation office on implementation of the codes.

3-23 (e) Local amendments may not result in less stringent energy
 3-24 efficiency requirements in nonattainment areas and in affected
 3-25 counties than the energy efficiency chapter of the International
 3-26 Residential Code or International Energy Conservation Code. Local
 3-27 amendments must comply with the National Appliance Energy
 3-28 Conservation Act of 1987 (42 U.S.C. Sections 6291-6309), as
 3-29 amended. The laboratory, at the request of a municipality or
 3-30 county, shall determine the relative impact of proposed local
 3-31 amendments to an energy code, including whether proposed amendments
 3-32 are substantially equal to or less stringent than the unamended
 3-33 code. For the purpose of establishing uniform requirements
 3-34 throughout a region, and on request of a council of governments, a
 3-35 county, or a municipality, the laboratory may recommend a
 3-36 climatically appropriate modification or a climate zone
 3-37 designation for a county or group of counties that is different from
 3-38 the climate zone designation in the unamended code. The laboratory
 3-39 shall:

3-40 (1) report its findings to the council, county, or
 3-41 municipality, including an estimate of any energy savings potential
 3-42 above the unamended [base] code from local amendments; and

3-43 (2) annually submit a report to the commission:

3-44 (A) identifying the municipalities and counties
 3-45 whose codes are more stringent than the unamended code, and whose
 3-46 codes are equally stringent or less stringent than the unamended
 3-47 code; and

3-48 (B) quantifying energy savings and emissions
 3-49 reductions from this program for consideration in the state
 3-50 implementation plan for emissions reduction credit.

3-51 SECTION 4. Section 388.007, Health and Safety Code, is
 3-52 amended by amending Subsection (c) and adding Subsection (d) to
 3-53 read as follows:

3-54 (c) The laboratory may provide local jurisdictions with
 3-55 technical assistance concerning implementation and enforcement of
 3-56 the International Energy Conservation Code and the energy
 3-57 efficiency chapter of the International Residential Code,
 3-58 including local amendments to those codes.

3-59 (d) The laboratory may conduct outreach to the real estate
 3-60 industry, including real estate agents, home builders, remodelers,
 3-61 appraisers, and financial institutions, on the value of energy code
 3-62 compliance and verified, above-code, high-performance
 3-63 construction.

3-64 SECTION 5. Section 55.115, Education Code, as added by this
 3-65 Act, and Section 447.004, Government Code, as amended by this Act,
 3-66 apply only to an institution of higher education building,
 3-67 structure, or other facility or a state building for which the
 3-68 contract for design services is entered into on or after September
 3-69 1, 2013.

4-1 SECTION 6. This Act takes effect September 1, 2011.

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