

By: Keffer

H.B. No. 1728

A BILL TO BE ENTITLED

AN ACT

relating to energy savings performance contracts and energy efficiency planning.

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

SECTION 1. Section 44.901, Education Code, is amended by amending Subsection (a) and adding Subsection (f-1) to read as follows:

(a) In this section, "energy savings performance contract" means a contract for energy or water conservation measures to reduce energy or water consumption or operating costs of new or existing school facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period. The term includes a contract for the installation or implementation of:

(1) insulation of a building structure and systems within the building;

(2) storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

(3) automatic energy control systems, including computer software and technical data licenses;

(4) heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water

1 consumption;

2 (5) lighting fixtures that increase energy

3 efficiency;

4 (6) energy recovery systems;

5 (7) electric systems improvements;

6 (8) water-conserving fixtures, appliances, and

7 equipment or the substitution of non-water-using fixtures,

8 appliances, and equipment;

9 (9) water-conserving landscape irrigation equipment;

10 (10) landscaping measures that reduce watering

11 demands and capture and hold applied water and rainfall, including:

12 (A) landscape contouring, including the use of

13 berms, swales, and terraces; and

14 (B) the use of soil amendments that increase the

15 water-holding capacity of the soil, including compost;

16 (11) rainwater harvesting equipment and equipment to

17 make use of water collected as part of a storm-water system

18 installed for water quality control;

19 (12) equipment for recycling or reuse of water

20 originating on the premises or from other sources, including

21 treated municipal effluent;

22 (13) equipment needed to capture water from

23 nonconventional, alternate sources, including air conditioning

24 condensate or graywater, for nonpotable uses;

25 (14) metering equipment needed to segregate water use

26 in order to identify water conservation opportunities or verify

27 water savings; or

1 (15) other energy or water conservation-related
2 improvements or equipment, including improvements or equipment
3 relating to renewable energy or nonconventional water sources or
4 water reuse.

5 (f-1) Notwithstanding other law, the board of trustees may
6 contract with the provider of the energy or water conservation
7 measures to perform work that is related to, connected with, or
8 otherwise ancillary to the measures identified in the scope of an
9 energy savings performance contract and may use any available
10 money, other than money borrowed from this state, to pay the
11 provider for such services under this section and the board is not
12 required to pay for such costs solely out of the savings realized by
13 the school district under an energy savings performance contract.

14 SECTION 2. Section 44.902, Education Code, is amended by
15 adding Subsection (b-1) and amending Subsection (d) to read as
16 follows:

17 (b-1) For purposes of Subsection (b), a strategy for
18 achieving energy efficiency includes facility design and
19 construction.

20 (d) The board of trustees may submit the plan required under
21 Subsection (a) to the State Energy Conservation Office for the
22 purposes of determining whether funds available through loan
23 programs administered by the office or tax incentives administered
24 by the state or federal government are available to the district.
25 The board may not disallow any proper allocation of incentives.

26 SECTION 3. Section 51.927, Education Code, is amended by
27 amending Subsection (a) and adding Subsection (g-1) to read as

1 follows:

2 (a) In this section, "energy savings performance contract"
3 means a contract for energy or water conservation measures to
4 reduce energy or water consumption or operating costs of new or
5 existing institutional facilities in which the estimated savings in
6 utility costs resulting from the measures is guaranteed to offset
7 the cost of the measures over a specified period. The term includes
8 a contract for the installation or implementation of:

9 (1) insulation of a building structure and systems
10 within a building;

11 (2) storm windows or doors, caulking or weather
12 stripping, multiglazed windows or doors, heat-absorbing or
13 heat-reflective glazed and coated window or door systems, or other
14 window or door system modifications that reduce energy consumption;

15 (3) automatic energy control systems, including
16 computer software and technical data licenses;

17 (4) heating, ventilating, or air conditioning system
18 modifications or replacements that reduce energy or water
19 consumption;

20 (5) lighting fixtures that increase energy
21 efficiency;

22 (6) energy recovery systems;

23 (7) electric systems improvements;

24 (8) water-conserving fixtures, appliances, and
25 equipment or the substitution of non-water-using fixtures,
26 appliances, and equipment;

27 (9) water-conserving landscape irrigation equipment;

1 (10) landscaping measures that reduce watering
2 demands and capture and hold applied water and rainfall, including:

3 (A) landscape contouring, including the use of
4 berms, swales, and terraces; and

5 (B) the use of soil amendments that increase the
6 water-holding capacity of the soil, including compost;

7 (11) rainwater harvesting equipment and equipment to
8 make use of water collected as part of a storm-water system
9 installed for water quality control;

10 (12) equipment for recycling or reuse of water
11 originating on the premises or from other sources, including
12 treated municipal effluent;

13 (13) equipment needed to capture water from
14 nonconventional, alternate sources, including air conditioning
15 condensate or graywater, for nonpotable uses;

16 (14) metering equipment needed to segregate water use
17 in order to identify water conservation opportunities or verify
18 water savings; or

19 (15) other energy or water conservation-related
20 improvements or equipment, including improvements or equipment
21 related to renewable energy or nonconventional water sources or
22 water reuse.

23 (g-1) Notwithstanding other law, the board may contract
24 with the provider of the energy or water conservation measures to
25 perform work that is related to, connected with, or otherwise
26 ancillary to the measures identified in the scope of an energy
27 savings performance contract and may use any available money, other

1 than money borrowed from this state, to pay the provider for such
2 services under this section and the board is not required to pay for
3 such costs solely out of the savings realized by the institution of
4 higher education under an energy savings performance contract.

5 SECTION 4. Section 2166.406, Government Code, is amended by
6 amending Subsections (a) and (g) and adding Subsection (f-1) to
7 read as follows:

8 (a) In this section, "energy savings performance contract"
9 means a contract for energy or water conservation measures to
10 reduce energy or water consumption or operating costs of new or
11 existing governmental facilities in which the estimated savings in
12 utility costs resulting from the measures is guaranteed to offset
13 the cost of the measures over a specified period. The term includes
14 a contract for the installation of:

15 (1) insulation of a building structure and systems
16 within the building;

17 (2) storm windows or doors, caulking or weather
18 stripping, multiglazed windows or doors, heat absorbing or heat
19 reflective glazed and coated window or door systems, or other
20 window or door system modifications that reduce energy consumption;

21 (3) automatic energy control systems, including
22 computer software and technical data licenses;

23 (4) heating, ventilating, or air-conditioning system
24 modifications or replacements that reduce energy or water
25 consumption;

26 (5) lighting fixtures that increase energy
27 efficiency;

- 1 (6) energy recovery systems;
- 2 (7) electric systems improvements;
- 3 (8) water-conserving fixtures, appliances, and
- 4 equipment or the substitution of non-water-using fixtures,
- 5 appliances, and equipment;
- 6 (9) water-conserving landscape irrigation equipment;
- 7 (10) landscaping measures that reduce watering
- 8 demands and capture and hold applied water and rainfall, including:
- 9 (A) landscape contouring, including the use of
- 10 berms, swales, and terraces; and
- 11 (B) the use of soil amendments that increase the
- 12 water-holding capacity of the soil, including compost;
- 13 (11) rainwater harvesting equipment and equipment to
- 14 make use of water collected as part of a storm-water system
- 15 installed for water quality control;
- 16 (12) equipment for recycling or reuse of water
- 17 originating on the premises or from other sources, including
- 18 treated municipal effluent;
- 19 (13) equipment needed to capture water from
- 20 nonconventional, alternate sources, including air conditioning
- 21 condensate or graywater, for nonpotable uses;
- 22 (14) metering equipment needed to segregate water use
- 23 in order to identify water conservation opportunities or verify
- 24 water savings; or
- 25 (15) other energy or water conservation-related
- 26 improvements or equipment including improvements or equipment
- 27 related to renewable energy or nonconventional water sources or

1 water reuse.

2 (f-1) Notwithstanding other law, the state agency may
3 contract with the provider of the energy or water conservation
4 measures to perform work that is related to, connected with, or
5 otherwise ancillary to the measures identified in the scope of an
6 energy savings performance contract and may use any available
7 money, other than money borrowed from this state, to pay the
8 provider for such services under this section and the state agency
9 is not required to pay for such costs solely out of the savings
10 realized by the local government under an energy savings
11 performance contract.

12 (g) An energy savings performance contract with respect to
13 ~~[existing]~~ buildings or facilities may be financed:

14 (1) under a lease/purchase contract that has a term
15 not to exceed 20 years from the final date of installation and that
16 meets federal tax requirements for tax-free municipal leasing or
17 long-term financing, including a lease/purchase contract under the
18 master equipment lease purchase program administered by the Texas
19 Public Finance Authority under Chapter 1232;

20 (2) with the proceeds of bonds; or

21 (3) under a contract with the provider of the energy or
22 water conservation measures that has a term not to exceed the lesser
23 of 20 years from the final date of installation or the average
24 useful life of the energy or water conservation or usage measures.

25 SECTION 5. Section 302.001(4), Local Government Code, is
26 amended to read as follows:

27 (4) "Energy savings performance contract" means a

1 contract between a local government and a provider for energy or
2 water conservation or usage measures in which the estimated energy
3 savings, increase in billable revenues, or increase in meter
4 accuracy resulting from the measures is subject to guarantee to
5 offset the cost of the energy or water conservation or usage
6 measures over a specified period. The term includes a contract for
7 the installation or implementation of the following in new or
8 existing facilities, including all causally connected work:

9 (A) insulation of a building structure and
10 systems within the building;

11 (B) storm windows or doors, caulking or weather
12 stripping, multiglazed windows or doors, heat-absorbing or
13 heat-reflective glazed and coated window or door systems, or other
14 window or door system modifications that reduce energy consumption;

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

17 (D) heating, ventilating, or air-conditioning
18 system modifications or replacements that reduce energy or water
19 consumption;

20 (E) lighting fixtures that increase energy
21 efficiency;

22 (F) energy recovery systems;

23 (G) electric systems improvements;

24 (H) water-conserving fixtures, appliances, and
25 equipment or the substitution of non-water-using fixtures,
26 appliances, and equipment;

27 (I) water-conserving landscape irrigation

equipment;

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

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

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

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

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

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

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

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

SECTION 6. Section 302.004, Local Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) Notwithstanding other law, the governing body of a local government may contract with the provider of the energy or water conservation measures to perform work that is related to,

1 connected with, or otherwise ancillary to the measures identified
2 in the scope of an energy savings performance contract and may use
3 any available money, other than money borrowed from this state, to
4 pay the provider for such services under this section and the
5 governing body is not required to pay for such costs solely out of
6 the savings realized by the local government under an energy
7 savings performance contract.

8 SECTION 7. This Act takes effect September 1, 2011.