

By: Keffer

H.B. No. 1728

A BILL TO BE ENTITLED

AN ACT

relating to energy savings performance contracts.

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 consumption;

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

1 improvements or equipment, including improvements or equipment
2 relating to renewable energy or nonconventional water sources or
3 water reuse.

4 (f-1) Notwithstanding other law, the board of trustees of a
5 school district may use any available money, other than money
6 borrowed from this state, to pay the provider of the energy or water
7 conservation measures under this section, and the board is not
8 required to pay for the energy or water conservation measures
9 solely out of the savings realized by the school district under an
10 energy saving performance contract.

11 SECTION 2. Section 51.927, Education Code, is amended by
12 amending Subsection (a) and adding Subsection (g-1) to read as
13 follows:

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

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

23 (2) storm windows or doors, caulking or weather
24 stripping, multiglazed windows or doors, heat-absorbing or
25 heat-reflective glazed and coated window or door systems, or other
26 window or door system modifications that reduce energy consumption;

27 (3) automatic energy control systems, including

1 computer software and technical data licenses;

2 (4) heating, ventilating, or air conditioning system
3 modifications or replacements that reduce energy or water
4 consumption;

5 (5) lighting fixtures that increase energy
6 efficiency;

7 (6) energy recovery systems;

8 (7) electric systems improvements;

9 (8) water-conserving fixtures, appliances, and
10 equipment or the substitution of non-water-using fixtures,
11 appliances, and equipment;

12 (9) water-conserving landscape irrigation equipment;

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

15 (A) landscape contouring, including the use of
16 berms, swales, and terraces; and

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

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

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

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

1 (14) metering equipment needed to segregate water use
2 in order to identify water conservation opportunities or verify
3 water savings; or

4 (15) other energy or water conservation-related
5 improvements or equipment, including improvements or equipment
6 related to renewable energy or nonconventional water sources or
7 water reuse.

8 (g-1) Notwithstanding other law, the board may use any
9 available money, other than money borrowed from this state, to pay
10 the provider of the energy or water conservation measures under
11 this section, and the board is not required to pay for the energy or
12 water conservation measures solely out of the savings realized by
13 the institution of higher education under an energy saving
14 performance contract.

15 SECTION 3. Section 2166.406, Government Code, is amended by
16 amending Subsections (a) and (g) and adding Subsection (f-1) to
17 read as follows:

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

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

27 (2) storm windows or doors, caulking or weather

1 stripping, multiglazed windows or doors, heat absorbing or heat
2 reflective glazed and coated window or door systems, or other
3 window or door system modifications that reduce energy consumption;

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

6 (4) heating, ventilating, or air-conditioning system
7 modifications or replacements that reduce energy or water
8 consumption;

9 (5) lighting fixtures that increase energy
10 efficiency;

11 (6) energy recovery systems;

12 (7) electric systems improvements;

13 (8) water-conserving fixtures, appliances, and
14 equipment or the substitution of non-water-using fixtures,
15 appliances, and equipment;

16 (9) water-conserving landscape irrigation equipment;

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

19 (A) landscape contouring, including the use of
20 berms, swales, and terraces; and

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

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

26 (12) equipment for recycling or reuse of water
27 originating on the premises or from other sources, including

1 treated municipal effluent;

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

5 (14) metering equipment needed to segregate water use
6 in order to identify water conservation opportunities or verify
7 water savings; or

8 (15) other energy or water conservation-related
9 improvements or equipment including improvements or equipment
10 related to renewable energy or nonconventional water sources or
11 water reuse.

12 (f-1) Notwithstanding other law, the state agency may use
13 any available money, other than money borrowed from this state, to
14 pay the provider of the energy or water conservation measures under
15 this section, and the state agency is not required to pay for energy
16 or water conservation measures solely out of the savings realized
17 by the state agency under an energy saving performance contract.

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

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

26 (2) with the proceeds of bonds; or

27 (3) under a contract with the provider of the energy or

1 water conservation measures that has a term not to exceed the lesser
2 of 20 years from the final date of installation or the average
3 useful life of the energy or water conservation or usage measures.

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

6 (4) "Energy savings performance contract" means a
7 contract between a local government and a provider for energy or
8 water conservation or usage measures in which the estimated energy
9 savings, increase in billable revenues, or increase in meter
10 accuracy resulting from the measures is subject to guarantee to
11 offset the cost of the energy or water conservation or usage
12 measures over a specified period. The term includes a contract for
13 the installation or implementation of the following in new or
14 existing facilities, including all causally connected work:

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

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

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

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

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

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

1 water reuse.

2 SECTION 5. Section 302.004, Local Government Code, is
3 amended by adding Subsection (a-1) to read as follows:

4 (a-1) Notwithstanding other law, the governing body of a
5 local government may use any available money, other than money
6 borrowed from this state, to pay the provider of the energy or water
7 conservation measures under this section, and the governing body is
8 not required to pay for energy or water conservation measures
9 solely out of the savings realized by the local government under an
10 energy saving performance contract.

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