

1-1 By: Harris S.B. No. 1460  
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read  
1-3 first time and referred to Committee on Government Organization;  
1-4 May 12, 2011, reported favorably by the following vote: Yeas 5,  
1-5 Nays 0; May 12, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to energy savings performance contracts.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 44.901, Education Code, is amended by  
1-11 amending Subsection (a) and adding Subsection (f-1) to read as  
1-12 follows:

1-13 (a) In this section, "energy savings performance contract"  
1-14 means a contract for energy or water conservation measures to  
1-15 reduce energy or water consumption or operating costs of new or  
1-16 existing school facilities in which the estimated savings in  
1-17 utility costs resulting from the measures is guaranteed to offset  
1-18 the cost of the measures over a specified period. The term includes  
1-19 a contract for the installation or implementation of:

1-20 (1) insulation of a building structure and systems  
1-21 within the building;

1-22 (2) storm windows or doors, caulking or  
1-23 weatherstripping, multiglazed windows or doors, heat absorbing or  
1-24 heat reflective glazed and coated window or door systems, or other  
1-25 window or door system modifications that reduce energy consumption;

1-26 (3) automatic energy control systems, including  
1-27 computer software and technical data licenses;

1-28 (4) heating, ventilating, or air-conditioning system  
1-29 modifications or replacements that reduce energy or water  
1-30 consumption;

1-31 (5) lighting fixtures that increase energy  
1-32 efficiency;

1-33 (6) energy recovery systems;

1-34 (7) electric systems improvements;

1-35 (8) water-conserving fixtures, appliances, and  
1-36 equipment or the substitution of non-water-using fixtures,  
1-37 appliances, and equipment;

1-38 (9) water-conserving landscape irrigation equipment;

1-39 (10) landscaping measures that reduce watering  
1-40 demands and capture and hold applied water and rainfall, including:

1-41 (A) landscape contouring, including the use of  
1-42 berms, swales, and terraces; and

1-43 (B) the use of soil amendments that increase the  
1-44 water-holding capacity of the soil, including compost;

1-45 (11) rainwater harvesting equipment and equipment to  
1-46 make use of water collected as part of a storm-water system  
1-47 installed for water quality control;

1-48 (12) equipment for recycling or reuse of water  
1-49 originating on the premises or from other sources, including  
1-50 treated municipal effluent;

1-51 (13) equipment needed to capture water from  
1-52 nonconventional, alternate sources, including air conditioning  
1-53 condensate or graywater, for nonpotable uses;

1-54 (14) metering equipment needed to segregate water use  
1-55 in order to identify water conservation opportunities or verify  
1-56 water savings; or

1-57 (15) other energy or water conservation-related  
1-58 improvements or equipment, including improvements or equipment  
1-59 relating to renewable energy or nonconventional water sources or  
1-60 water reuse.

1-61 (f-1) Notwithstanding other law, the board of trustees of a  
1-62 school district may use any available money, other than money  
1-63 borrowed from this state, to pay the provider of the energy or water  
1-64 conservation measures under this section, and the board is not

2-1 required to pay for the energy or water conservation measures  
2-2 solely out of the savings realized by the school district under an  
2-3 energy savings performance contract.

2-4 SECTION 2. Section 51.927, Education Code, is amended by  
2-5 amending Subsection (a) and adding Subsection (g-1) to read as  
2-6 follows:

2-7 (a) In this section, "energy savings performance contract"  
2-8 means a contract for energy or water conservation measures to  
2-9 reduce energy or water consumption or operating costs of new or  
2-10 existing institutional facilities in which the estimated savings in  
2-11 utility costs resulting from the measures is guaranteed to offset  
2-12 the cost of the measures over a specified period. The term includes  
2-13 a contract for the installation or implementation of:

2-14 (1) insulation of a building structure and systems  
2-15 within a building;

2-16 (2) storm windows or doors, caulking or weather  
2-17 stripping, multiglazed windows or doors, heat-absorbing or  
2-18 heat-reflective glazed and coated window or door systems, or other  
2-19 window or door system modifications that reduce energy consumption;

2-20 (3) automatic energy control systems, including  
2-21 computer software and technical data licenses;

2-22 (4) heating, ventilating, or air conditioning system  
2-23 modifications or replacements that reduce energy or water  
2-24 consumption;

2-25 (5) lighting fixtures that increase energy  
2-26 efficiency;

2-27 (6) energy recovery systems;

2-28 (7) electric systems improvements;

2-29 (8) water-conserving fixtures, appliances, and  
2-30 equipment or the substitution of non-water-using fixtures,  
2-31 appliances, and equipment;

2-32 (9) water-conserving landscape irrigation equipment;

2-33 (10) landscaping measures that reduce watering  
2-34 demands and capture and hold applied water and rainfall, including:

2-35 (A) landscape contouring, including the use of  
2-36 berms, swales, and terraces; and

2-37 (B) the use of soil amendments that increase the  
2-38 water-holding capacity of the soil, including compost;

2-39 (11) rainwater harvesting equipment and equipment to  
2-40 make use of water collected as part of a storm-water system  
2-41 installed for water quality control;

2-42 (12) equipment for recycling or reuse of water  
2-43 originating on the premises or from other sources, including  
2-44 treated municipal effluent;

2-45 (13) equipment needed to capture water from  
2-46 nonconventional, alternate sources, including air conditioning  
2-47 condensate or graywater, for nonpotable uses;

2-48 (14) metering equipment needed to segregate water use  
2-49 in order to identify water conservation opportunities or verify  
2-50 water savings; or

2-51 (15) other energy or water conservation-related  
2-52 improvements or equipment, including improvements or equipment  
2-53 related to renewable energy or nonconventional water sources or  
2-54 water reuse.

2-55 (g-1) Notwithstanding other law, the board may use any  
2-56 available money, other than money borrowed from this state, to pay  
2-57 the provider of the energy or water conservation measures under  
2-58 this section, and the board is not required to pay for the energy or  
2-59 water conservation measures solely out of the savings realized by  
2-60 the institution of higher education under an energy savings  
2-61 performance contract.

2-62 SECTION 3. Section 2166.406, Government Code, is amended by  
2-63 amending Subsections (a) and (g) and adding Subsection (f-1) to  
2-64 read as follows:

2-65 (a) In this section, "energy savings performance contract"  
2-66 means a contract for energy or water conservation measures to  
2-67 reduce energy or water consumption or operating costs of new or  
2-68 existing governmental facilities in which the estimated savings in  
2-69 utility costs resulting from the measures is guaranteed to offset

3-1 the cost of the measures over a specified period. The term includes  
 3-2 a contract for the installation of:

- 3-3 (1) insulation of a building structure and systems
- 3-4 within the building;
- 3-5 (2) storm windows or doors, caulking or weather
- 3-6 stripping, multiglazed windows or doors, heat absorbing or heat
- 3-7 reflective glazed and coated window or door systems, or other
- 3-8 window or door system modifications that reduce energy consumption;
- 3-9 (3) automatic energy control systems, including
- 3-10 computer software and technical data licenses;
- 3-11 (4) heating, ventilating, or air-conditioning system
- 3-12 modifications or replacements that reduce energy or water
- 3-13 consumption;
- 3-14 (5) lighting fixtures that increase energy
- 3-15 efficiency;
- 3-16 (6) energy recovery systems;
- 3-17 (7) electric systems improvements;
- 3-18 (8) water-conserving fixtures, appliances, and
- 3-19 equipment or the substitution of non-water-using fixtures,
- 3-20 appliances, and equipment;
- 3-21 (9) water-conserving landscape irrigation equipment;
- 3-22 (10) landscaping measures that reduce watering
- 3-23 demands and capture and hold applied water and rainfall, including:
- 3-24 (A) landscape contouring, including the use of
- 3-25 berms, swales, and terraces; and
- 3-26 (B) the use of soil amendments that increase the
- 3-27 water-holding capacity of the soil, including compost;
- 3-28 (11) rainwater harvesting equipment and equipment to
- 3-29 make use of water collected as part of a storm-water system
- 3-30 installed for water quality control;
- 3-31 (12) equipment for recycling or reuse of water
- 3-32 originating on the premises or from other sources, including
- 3-33 treated municipal effluent;
- 3-34 (13) equipment needed to capture water from
- 3-35 nonconventional, alternate sources, including air conditioning
- 3-36 condensate or graywater, for nonpotable uses;
- 3-37 (14) metering equipment needed to segregate water use
- 3-38 in order to identify water conservation opportunities or verify
- 3-39 water savings; or
- 3-40 (15) other energy or water conservation-related
- 3-41 improvements or equipment including improvements or equipment
- 3-42 related to renewable energy or nonconventional water sources or
- 3-43 water reuse.

3-44 (f-1) Notwithstanding other law, the state agency may use  
 3-45 any available money, other than money borrowed from this state, to  
 3-46 pay the provider of the energy or water conservation measures under  
 3-47 this section, and the state agency is not required to pay for energy  
 3-48 or water conservation measures solely out of the savings realized  
 3-49 by the state agency under an energy savings performance contract.

3-50 (g) An energy savings performance contract with respect to  
 3-51 ~~existing~~ buildings or facilities may be financed:

- 3-52 (1) under a lease/purchase contract that has a term
- 3-53 not to exceed 20 years from the final date of installation and that
- 3-54 meets federal tax requirements for tax-free municipal leasing or
- 3-55 long-term financing, including a lease/purchase contract under the
- 3-56 master equipment lease purchase program administered by the Texas
- 3-57 Public Finance Authority under Chapter 1232;
- 3-58 (2) with the proceeds of bonds; or
- 3-59 (3) under a contract with the provider of the energy or
- 3-60 water conservation measures that has a term not to exceed the lesser
- 3-61 of 20 years from the final date of installation or the average
- 3-62 useful life of the energy or water conservation or usage measures.

3-63 SECTION 4. Subdivision (4), Section 302.001, Local  
 3-64 Government Code, is amended to read as follows:

3-65 (4) "Energy savings performance contract" means a  
 3-66 contract between a local government and a provider for energy or  
 3-67 water conservation or usage measures in which the estimated energy  
 3-68 savings, increase in billable revenues, or increase in meter  
 3-69 accuracy resulting from the measures is subject to guarantee to

4-1 offset the cost of the energy or water conservation or usage  
4-2 measures over a specified period. The term includes a contract for  
4-3 the installation or implementation of the following in new or  
4-4 existing facilities, including all causally connected work:

4-5 (A) insulation of a building structure and  
4-6 systems within the building;

4-7 (B) storm windows or doors, caulking or weather  
4-8 stripping, multiglazed windows or doors, heat-absorbing or  
4-9 heat-reflective glazed and coated window or door systems, or other  
4-10 window or door system modifications that reduce energy consumption;

4-11 (C) automatic energy control systems, including  
4-12 computer software and technical data licenses;

4-13 (D) heating, ventilating, or air-conditioning  
4-14 system modifications or replacements that reduce energy or water  
4-15 consumption;

4-16 (E) lighting fixtures that increase energy  
4-17 efficiency;

4-18 (F) energy recovery systems;

4-19 (G) electric systems improvements;

4-20 (H) water-conserving fixtures, appliances, and  
4-21 equipment or the substitution of non-water-using fixtures,  
4-22 appliances, and equipment;

4-23 (I) water-conserving landscape irrigation  
4-24 equipment;

4-25 (J) landscaping measures that reduce watering  
4-26 demands and capture and hold applied water and rainfall, including:

4-27 (i) landscape contouring, including the use  
4-28 of berms, swales, and terraces; and

4-29 (ii) the use of soil amendments that  
4-30 increase the water-holding capacity of the soil, including compost;

4-31 (K) rainwater harvesting equipment and equipment  
4-32 to make use of water collected as part of a storm-water system  
4-33 installed for water quality control;

4-34 (L) equipment for recycling or reuse of water  
4-35 originating on the premises or from other sources, including  
4-36 treated municipal effluent;

4-37 (M) equipment needed to capture water from  
4-38 nonconventional, alternate sources, including air-conditioning  
4-39 condensate or graywater, for nonpotable uses;

4-40 (N) metering or related equipment or systems that  
4-41 improve the accuracy of billable-revenue-generation systems; or

4-42 (O) other energy or water conservation-related  
4-43 improvements or equipment, including improvements or equipment  
4-44 relating to renewable energy or nonconventional water sources or  
4-45 water reuse.

4-46 SECTION 5. Section 302.004, Local Government Code, is  
4-47 amended by adding Subsection (a-1) to read as follows:

4-48 (a-1) Notwithstanding other law, the governing body of a  
4-49 local government may use any available money, other than money  
4-50 borrowed from this state, to pay the provider of the energy or water  
4-51 conservation measures under this section, and the governing body is  
4-52 not required to pay for energy or water conservation measures  
4-53 solely out of the savings realized by the local government under an  
4-54 energy savings performance contract.

4-55 SECTION 6. This Act takes effect September 1, 2011.

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