

House Bill 1728
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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;
- (5) lighting fixtures that increase energy efficiency;
- (6) energy recovery systems;
- (7) electric systems improvements;
- (8) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;
- (9) water-conserving landscape irrigation equipment;
- (10) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:

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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;
- (5) lighting fixtures that increase energy efficiency;
- (6) energy recovery systems;
- (7) electric systems improvements;
- (8) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;
- (9) water-conserving landscape irrigation equipment;
- (10) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:

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(A) landscape contouring, including the use of berms, swales, and terraces; and
(B) the use of soil amendments that increase the water-holding capacity of the soil, including compost;
(11) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;
(12) equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;
(13) equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;
(14) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
(15) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.
(f-1) Notwithstanding other law, the board of trustees may contract with the provider of the energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract and may use any available money, other than money borrowed from this state, to pay the provider for such services under this section and the board is not required to pay for such costs solely out of the savings realized by the school district under an energy savings performance contract.

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(A) landscape contouring, including the use of berms, swales, and terraces; and
(B) the use of soil amendments that increase the water-holding capacity of the soil, including compost;
(11) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;
(12) equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;
(13) equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;
(14) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
(15) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.
(f-1) Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the board is not required to pay for such costs solely out of the savings realized by the school district under an energy savings performance contract. The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract. [FA1(1)]

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

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

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

SECTION 3. Section 51.927, Education Code, is amended by amending Subsection (a) and adding Subsection (g-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 institutional 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 a building;
- (2) storm windows or doors, caulking or weather stripping, 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;

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SECTION 2. Same as House version.

SECTION 3. Section 51.927, Education Code, is amended by amending Subsection (a) and adding Subsection (g-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 institutional 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 a building;
- (2) storm windows or doors, caulking or weather stripping, 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;

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

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

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equipment related to renewable energy or nonconventional water sources or water reuse.

(g-1) Notwithstanding other law, the board may contract with the provider of the energy or water conservation measures to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract and may use any available money, other than money borrowed from this state, to pay the provider **for such services under this section** and the board is not required to pay for such costs solely out of the savings realized by the institution of higher education under an energy savings performance contract.

SECTION 4. Section 2166.406, Government Code, is amended by amending Subsections (a) and (g) 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 governmental 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 of:

- (1) insulation of a building structure and systems within the building;
- (2) storm windows or doors, caulking or weather stripping, 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

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equipment related to renewable energy or nonconventional water sources or water reuse.

(g-1) Notwithstanding other law, the board may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures **under this section**, and the board is not required to pay for such costs solely out of the savings realized by the institution of higher education under an energy savings performance contract. The board may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract. [FA1(2)]

SECTION 4. Section 2166.406, Government Code, is amended by amending Subsections (a) and (g) 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 governmental 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 of:

- (1) insulation of a building structure and systems within the building;
- (2) storm windows or doors, caulking or weather stripping, 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

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

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water sources or water reuse.

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

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

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

(2) with the proceeds of bonds; or

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

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

(4) "Energy savings performance contract" means a contract between a local government and a provider for energy or

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water sources or water reuse.

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

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

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

(2) with the proceeds of bonds; or

(3) under a contract with the provider of the energy or water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures. [FA1(3)]

SECTION 5. Same as House version.

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<p>water conservation or usage measures in which the estimated energy savings, increase in billable revenues, or increase in meter accuracy resulting from the measures is subject to guarantee to offset the cost of the energy or water conservation or usage measures over a specified period. The term includes a contract for the installation or implementation of the following <u>in new or existing facilities</u>, including all causally connected work:</p> <p>(A) insulation of a building structure and systems within the building;</p> <p>(B) storm windows or doors, caulking or weather stripping, 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;</p> <p>(C) automatic energy control systems, including computer software and technical data licenses;</p> <p>(D) heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;</p> <p>(E) lighting fixtures that increase energy efficiency;</p> <p>(F) energy recovery systems;</p> <p>(G) electric systems improvements;</p> <p>(H) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;</p> <p>(I) water-conserving landscape irrigation equipment;</p> <p>(J) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:</p> <p>(i) landscape contouring, including the use of berms, swales, and terraces; and</p> <p>(ii) the use of soil amendments that increase the water-</p>		

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

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 use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under this section, and the governing body is not required to pay for such costs solely out of the savings realized by the local government under an energy savings performance contract. The governing body may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract. [FA1(4)]

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

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SECTION 7. Same as House version.

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