

BILL ANALYSIS

C.S.H.B. 599
By: Clardy
Higher Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to interested parties, recent legislation transferred authority for the approval of capital projects from the Texas Higher Education Coordinating Board to the boards of public institutions of higher education. The parties note, however, that the coordinating board is still required to engage in an approval process for energy savings performance contracts at such institutions. C.S.H.B. 599 seeks to transfer responsibility for and oversight of these contracts to the State Energy Conservation Office.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 599 amends the Education Code to remove the requirement that the Texas Higher Education Coordinating Board, in consultation with the State Energy Conservation Office (SECO), establish guidelines and an approval process for awarding energy savings performance contracts with respect to institutions of higher education and to instead require SECO to establish the guidelines and approval process. The bill removes statutory language establishing that such a contract is not required to be reviewed or approved by SECO and instead prohibits the governing board of an institution of higher education from entering into an energy savings performance contract unless the contract has been approved by SECO. The bill prohibits such a contract from being reviewed by the coordinating board, regardless of the coordinating board's duties that exist with respect to the construction, repair, or rehabilitation of buildings and facilities at public institutions of higher education.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 599 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 51.927, Education Code, is amended by amending Subsections (i) and (l) and adding Subsections (i-1) and (i-2) to read as follows:

(i) An energy savings performance contract shall be let according to the procedures established for procuring certain professional services by Section 2254.004, Government Code. Notice of the request for qualifications shall be given in the manner provided by Section 2156.002, Government Code. The ~~[Texas Higher Education Coordinating Board, in consultation with the]~~ State Energy Conservation Office ~~[with regard to energy and water conservation measures,]~~ shall establish guidelines and an approval process for awarding energy savings performance contracts under this section.

(i-1) The guidelines established under Subsection (i) must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Sections 1001.053 and 1001.407, Occupations Code, apply to work performed under the contract.

(i-2) The board may not enter into an energy savings performance contract unless the contract has been [A contract is not required to be reviewed or] approved by the State Energy Conservation Office. The contract is not required to be reviewed or approved by the Texas Higher Education Coordinating Board. However, the coordinating board may review energy savings performance contracts in performing the duties of the coordinating board under Section 61.058 [Sections 1001.053 and 1001.407,

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 51.927, Education Code, is amended by amending Subsections (i) and (l) and adding Subsections (i-1) and (i-2) to read as follows:

(i) An energy savings performance contract shall be let according to the procedures established for procuring certain professional services by Section 2254.004, Government Code. Notice of the request for qualifications shall be given in the manner provided by Section 2156.002, Government Code. The ~~[Texas Higher Education Coordinating Board, in consultation with the]~~ State Energy Conservation Office ~~[with regard to energy and water conservation measures,]~~ shall establish guidelines and an approval process for awarding energy savings performance contracts under this section.

(i-1) The guidelines established under Subsection (i) must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Sections 1001.053 and 1001.407, Occupations Code, apply to work performed under the contract.

(i-2) The board may not enter into an energy savings performance contract unless the contract has been [A contract is not required to be reviewed or] approved by the State Energy Conservation Office. The contract may not be reviewed by the Texas Higher Education Coordinating Board, regardless of any duties of the coordinating board that exist under Section 61.058 with respect to the construction, repair, or rehabilitation of buildings and facilities at public institutions of higher education [Sections 1001.053 and

~~Occupations Code, apply to work performed under the contract].~~

(1) The guidelines established under Subsection (i) must require the State Energy Conservation Office [~~Texas—Higher Education Coordinating Board~~] to:

(1) review any reports submitted to the office [~~board~~] that measure and verify cost savings to an institution of higher education under an energy savings performance contract; and

(2) based on the reports, provide an analysis, on a periodic basis, of the cost savings under the energy savings performance contract to the governing board of the institution of higher education and the Legislative Budget Board until the governing board of the institution of higher education determines that the analysis is no longer required to accurately measure cost savings.

SECTION 2. The change in law made by this Act to Section 51.927, Education Code, does not apply to an energy savings performance contract submitted for approval by the Texas Higher Education Coordinating Board under that section before the effective date of this Act, and the former law governing the approval of that contract is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

~~1001.407, Occupations Code, apply to work performed under the contract].~~

(1) The guidelines established under Subsection (i) must require the State Energy Conservation Office [~~Texas—Higher Education Coordinating Board~~] to:

(1) review any reports submitted to the office [~~board~~] that measure and verify cost savings to an institution of higher education under an energy savings performance contract; and

(2) based on the reports, provide an analysis, on a periodic basis, of the cost savings under the energy savings performance contract to the governing board of the institution of higher education and the Legislative Budget Board until the governing board of the institution of higher education determines that the analysis is no longer required to accurately measure cost savings.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.