

BILL ANALYSIS

C.S.H.B. 1571
By: Paddie
Energy Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note that under an energy savings performance contract certain entities can obtain financing for a project based on future savings on energy, water, and other costs. The parties contend that such a contract should also take into account certain other considerations. C.S.H.B. 1571 seeks to address this issue by revising provisions relating to energy savings performance contracts.

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. 1571 amends the Local Government Code to provide for a baseline for a local government energy savings performance contract based on avoided anticipated costs. The bill specifies that related net operating costs with respect to energy savings include costs for anticipated equipment replacement and repair. The bill removes the specification that the money the governing body of a local government may use to pay the provider of an energy or water conservation measure under an energy savings performance contract is money other than money borrowed from the state.

C.S.H.B. 1571 amends the Education Code and Government Code to align the definition of "energy savings performance contract" in statutory provisions applicable to public and higher education and general government with the Local Government Code definition of that term applicable to a local government and to remove the specification that the money the board of trustees of a school district, the governing board of an institution of higher education, or a state agency may use to pay the provider of an energy or water conservation measure under such a contract is money other than money borrowed from the state.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1571 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

No equivalent provision.

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 44.901(a) and (f-1), Education Code, are amended to read as follows:

(a) In this section, "energy savings performance contract" has the meaning assigned by Section 302.001, Local Government Code [~~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:~~

~~[(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.

No equivalent provision.

SECTION 2. Sections 51.927(a) and (g-1), Education Code, are amended to read as follows:

(a) In this section, "energy savings performance contract" has the meaning assigned by Section 302.001, Local Government Code ~~[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;~~

~~[(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 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.

No equivalent provision.

SECTION 3. Sections 2166.406(a) and (f-1), Government Code, are amended to read as follows:

(a) In this section, "energy savings performance contract" has the meaning assigned by Section 302.001, Local Government Code ~~[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 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 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.

SECTION 1. Section 302.001(3), Local Government Code, is amended to read as follows:

SECTION 4. Sections 302.001(1), (3), and (4), Local Government Code, are amended to read as follows:

(1) "Baseline" means a calculation or set of calculations in an energy savings performance contract that:

(A) may be based on:

(i) historical costs, revenues, accuracy, or related components; or

(ii) avoided anticipated costs; and

(B) used for determining:

(i) ~~(A)~~ the costs for energy or water usage ~~[by a local government]~~ and related net operating costs;

(ii) ~~(B)~~ the billable revenues from providing energy, water, or other utilities to users; or

(3) "Energy savings" means an estimated reduction in net fuel costs, energy costs, water costs, stormwater fees, other utility costs, or related net operating costs from or as compared to an established baseline of those costs, or an estimated amount of avoided expected future operating and maintenance costs.

The term does not include an estimated reduction due to a decrease in energy rates that is not derived from increased conservation or reduced usage.

(iii) ~~[(C)]~~ the efficiency or accuracy of metering or related equipment, systems, or processes or procedures.

(3) "Energy savings" means an estimated reduction in net fuel costs, energy costs, water costs, stormwater fees, or other utility costs, or related net operating costs, including costs for anticipated equipment replacement and repair, from or as compared to an established baseline of those costs.

The term does not include an estimated reduction due to a decrease in energy rates that is not derived from increased conservation or reduced usage.

(4) "Energy savings performance contract" means a contract with ~~[between a local government and]~~ a provider for energy or water conservation or usage measures in which the estimated energy savings, utility cost 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 related to the pilot program described by Subdivision (9-a) and a contract for the installation or implementation of the following in new or existing facilities, including all causally connected work:

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

(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;

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

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

(E) lighting fixtures that increase energy efficiency;

(F) energy recovery systems;

(G) electric systems improvements;

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

(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;
- (O) alternative fuel programs resulting in energy cost savings and reduced emissions for local government vehicles, including fleet vehicles;
- (P) programs resulting in utility cost savings; or
- (Q) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

No equivalent provision.

SECTION 5. Section 302.004(a-1), Local Government Code, is amended 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.

SECTION 2. This Act takes effect

SECTION 6. Same as introduced version.

immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.