

By: Paddie

H.B. No. 3583

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 (f-1) and adding Subsection (k) to read as follows:

(f-1) Notwithstanding other law, the board may use any available money 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.]~~

(k) The scope of an energy savings performance contract may not be modified under this section. For the purposes of this subsection, a modification includes a change order or contract addendum that adds to the scope of work for projects not awarded under the original contract.

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

(g-1) Notwithstanding other law, the board may use any available money to pay the provider of the energy or water

1 conservation measures under this section, and the board is not
2 required to pay for such costs solely out of the savings realized by
3 the institution of higher education under an energy savings
4 performance contract. [~~The board may contract with the provider to
5 perform work that is related to, connected with, or otherwise
6 ancillary to the measures identified in the scope of an energy
7 savings performance contract.~~]

8 (m) The scope of an energy savings performance contract may
9 not be modified under this section. For the purposes of this
10 subsection, a modification includes a change order or contract
11 addendum that adds to the scope of work for projects not awarded
12 under the original contract.

13 SECTION 3. Section 2166.406, Government Code, is amended by
14 amending Subsection (f-1) and adding Subsection (m) to read as
15 follows:

16 (f-1) Notwithstanding other law, the state agency may use
17 any available money to pay the provider of the energy or water
18 conservation measures under this section, and the state agency is
19 not required to pay for such costs solely out of the savings
20 realized by the state agency under an energy savings performance
21 contract. [~~The state agency may contract with the provider to
22 perform work that is related to, connected with, or otherwise
23 ancillary to the measures identified in the scope of an energy
24 savings performance contract.~~]

25 (m) The scope of an energy savings performance contract may
26 not be modified under this section. For the purposes of this
27 subsection, a modification includes a change order or contract

1 addendum that adds to the scope of work for projects not awarded
2 under the original contract.

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

5 (4) "Energy savings performance contract" means a
6 contract with a provider for energy or water conservation or usage
7 measures in which the estimated energy savings, utility cost
8 savings, increase in billable revenues, or increase in meter
9 accuracy resulting from the measures is subject to guarantee to
10 offset the cost of the energy or water conservation or usage
11 measures over a specified period. The term does not include the
12 design or construction of a highway, road, street, bridge,
13 underground utility, water supply project, water plant, wastewater
14 plant, water and wastewater distribution or conveyance facility,
15 wharf, dock, airport runway or taxiway, drainage project, or other
16 similar or related civil engineering construction project. The term
17 includes a contract related to the pilot program described by
18 Subdivision (9-a) and a contract for the installation or
19 implementation of the following in new or existing facilities,
20 including all causally connected work:

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

23 (B) 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 (C) automatic energy control systems, including

1 computer software and technical data licenses;

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

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

7 (F) energy recovery systems;

8 (G) electric systems improvements;

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

12 (I) water-conserving landscape irrigation
13 equipment;

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

16 (i) landscape contouring, including the use
17 of berms, swales, and terraces; and

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

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

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

26 (M) equipment needed to capture water from
27 nonconventional, alternate sources, including air-conditioning

1 condensate or graywater, for nonpotable uses;

2 (N) metering or related equipment or systems that
3 improve the accuracy of billable-revenue-generation systems;

4 (O) alternative fuel programs resulting in
5 energy cost savings and reduced emissions for local government
6 vehicles, including fleet vehicles; or

7 (P) programs resulting in utility cost savings[+
8 ~~or~~

9 [~~(Q) other energy or water conservation-related~~
10 ~~improvements or equipment, including improvements or equipment~~
11 ~~relating to renewable energy or nonconventional water sources or~~
12 ~~water reuse].~~

13 SECTION 5. Section 302.004(a-1), Local Government Code, is
14 amended to read as follows:

15 (a-1) Notwithstanding other law, the governing body of a
16 local government may use any available money to pay the provider of
17 the energy or water conservation measures under this section, and
18 the governing body is not required to pay for such costs solely out
19 of the savings realized by the local government under an energy
20 savings performance contract. [~~The governing body may contract~~
21 ~~with the provider to perform work that is related to, connected~~
22 ~~with, or otherwise ancillary to the measures identified in the~~
23 ~~scope of an energy savings performance contract.]~~

24 SECTION 6. Section 302.005, Local Government Code, is
25 amended by adding Subsection (d) to read as follows:

26 (d) The scope of an energy savings performance contract may
27 not be modified under this section. For the purposes of this

1 subsection, a modification includes a change order or contract
2 addendum that adds to the scope of work for projects not awarded
3 under the original contract.

4 SECTION 7. The following sections are repealed:

- 5 (1) Section 44.901(j), Education Code;
- 6 (2) Section 51.927(k), Education Code;
- 7 (3) Section 2166.406(k), Government Code; and
- 8 (4) Section 302.007, Local Government Code.

9 SECTION 8. The changes in law made by this Act do not apply
10 to an energy savings performance contract entered into before the
11 effective date of this Act, and the former law governing the
12 contract is continued in effect for that purpose.

13 SECTION 9. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2021.